

Innovative Zoning : A Digest of the Literature

Prepared by
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and
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On the following page is a sequential listing by section of all the reviewed entries in the Digest. If you know a title and/or author this will tell you whether or not it is reviewed in the Digest.

General References

Innovative Zoning and Local Regulatory Programs

- In-Zoning: A Guide for Policy-Makers on Inclusionary Land Use Programs*, Herbert M. Franklin, David Falk, and Arthur J. Levin, 1974.
- Urban Growth Management Systems: Evaluation of Policy-Related Research*, Michael Gleeson, et.al.,
- The New Zoning: Legal Administrative and Economic Concepts and Techniques*, Norman Marcus and Marilyn W. Grove (editors), 1970.

Administration of Innovative Zoning

- The Administration of Flexible Zoning Techniques*, Michael Meshenberg, 1976.

Legal Aspects of Innovative Zoning

- American Land Planning Law: Land Use and the Police Power*, Norman William, Jr., 1974.

Planned Unit Development

General References

- Planned Unit Development Ordinances*, Frank So, David Mosena, and Frank Bangs, Jr., 1973
- Frontiers of Planned Unit Development: A Synthesis of Expert Opinion*, Robert W. Burchell (editor), 1973.
- Planned Unit Development: New Communities American Style*, Robert W. Burchell and James W. Hughes, 1973.
- P.U.D.: A Better Way for the Suburbs*, Maxwell C. Huntoon, Jr., 1971.

Administrative Examples

- Planned Unit Development-Community Association Study: A Report on Problems Encountered in Schaumburg*, Schaumburg, Illinois, 1977.
- Planned Unit Development*, Urban Design Group, New York City Planning Department, 1968.

Legal Analysis

- "Legal Problems and Planned Unit Development: Uniformity, Comprehensive Planning, Conditions, and the Floating Zone"*, Aloï, 1972.

- Mechanisms for Common Ownership and Planned Unit Developments*, Lenard L. Wolffe.

Evaluations

- "Cost/Benefit Analysis of a PUD"*, R.L. Crouch and R.E. Weintraub.
- Evaluating the Fiscal Impacts of Planned Unit Development*, N.J. Division of State and Regional Planning.

Incentive Zoning

General References

- Incentives...* Seven articles by 10 authors, *Environmental Comment*, January, 1977.

Urban Design as Public Policy: Practical Methods for Improving Cities, Jonathan Barnett, 1974.

Bonus Provisions in Central City Areas, Mary Brooks, 1970.

Administrative Examples

- "Downtown Incentive Zoning - Plan for Anchorage, Alaska"*, Richard E. Hart, 1975.
- Ramapo's Managed Growth Program: A Close Look At Ramapo After Five Years Experience*, Manuel S. Emmanuel, 1974.
- Incentive Zoning for Boston*, David Barrett, 1973.
- Special Greenwich Street Development District*, John Pettit West III, 1971.
- San Francisco Downtown Zoning Study C-3 and Adjacent Districts, Final Report*, S.F. Dept. of City Planning, 1966.

Legal Analysis

- "Phased Zoning: Revaluation of Tempo and Sequence of Land Development"*, Steven L. Urbanczk, 1974.
- "Bonus or Incentive Zoning - Legal Implications"*, David J. Benson, 1970.

Evaluations

- "Bonuses by Site Plan: Measuring the Benefits"*, Thomas C. Parker and Richard C. Ward, 1975.

Impact Zoning

General References

- Using An Impact Measurement System to Evaluate Land Development*, Philip S. Schaenman, 1976.
- Performance Controls for Sensitive Lands: A Practical Guide for Local Administrators*, Charles Thurow, William Toner, and Duncan Erley, 1975.
- "If There's A Way Out of the Impasse Among Housing, The Community and the Environmentalists, The Way Is Impact Zoning"*, Michael Stimson, Jr., 1972.
- Industrial Performance Standards*, Marvin A. Salzenstein, 1971.

Administrative Examples

- Impact Zoning Procedures: An Element of a Growth Management Program for Cocoa Beach, Florida*, Adley Associates, Inc., 1975.
- Performance Zoning*, Bucks County Planning Commission, 1973.
- "The Town That Said No To No-Growth"*, Natalie Gerardi, 1973.
- "Performance Zoning: The Small Town of Gay Head, Massachusetts Tries It"*, Kevin Lynch and Philip Herr, 1973.
- Environmental Characteristics Planning: An Alternative Approach to Physical Planning*, Jacob Kaminsky, 1972.

Legal Analysis

- "Impact Zoning: Alternative to Exclusion in the Suburbs"*, Victor Yannacone, Jr., John Rahenkamp and Angelo Cerchione, 1976.

1.

Introduction

Purpose and Audience

This **Innovative Zoning Digest to the Literature**, a companion volume to "Innovative Zoning, A Local Official's Guidebook" is designed for all individuals involved in local land use management including the general public, elected and appointed officials, the staff of public agencies, consultants, land use attorneys and developers. The Digest serves as a select guide through the mass of literature now available on innovative zoning techniques. It permits the reader to quickly identify the breadth and depth of treatment of given particular issues, the specific publications most suitable to his needs, and further sources of information. Thus, it provides a handy reference tool for all community members concerned about land use and new land use management techniques. It is current to early 1977.

Background

Since its inception in 1916, zoning has become the most important land use management technique available to local governments. For years, the basic approach of zoning was to divide the community into districts within which certain specified constraints applied such as limits on building heights or minimum permissible setbacks. Over the years, however, new land use concerns have arisen such as environmental protection and citizen participation. The traditional zoning methodology began to appear to be too rigid to accommodate changing land use pressures and the new citizen concerns. It also came to be regarded by many as rather passive and inflexible, often restraining and limiting development choices rather than encouraging innovative ways of using the land or guiding the developer toward the achievement of broad community goals.

New techniques of land use management have been developed in response to these and other

dissatisfactions with conventional zoning. Much of their development was undertaken as part of 701 planning programs and continues to be a major element of these efforts as the techniques are implemented and improved by an ever-growing number of communities. These new methods have generally sought to design regulations flexible enough to present and encourage new options advantageous to both the developer and the community and to avoid presumptive fixed land use prescriptions. In varying forms, these new techniques have, in recent years, been tried by a number of communities with varied results.

Most of the new techniques are variations on three major innovative zoning approaches: Planned Unit Development (PUD), Incentive Zoning and Impact Zoning:

Planned Unit Development Zoning is a technique within an overall zoning scheme which allows relief from conventional standards for certain parcels of land, including flexibility in building location, variety of land uses and housing types, functional open space, and the preservation of significant, man-made and natural features within defined gross development densities. This flexibility is achieved through a prescribed site design review process which, when complete, gives vested rights not available with conventional zoning approvals to both the community and the developer.

Incentive Zoning offers a fixed inducement in the form of a specified bonus or incentive to developers in return for the developer including certain prescribed elements regarded as publicly desirable. The key feature of Incentive Zoning is that legislatively formalized public concessions are specifically granted to a developer in return for formal, specific public contributions by the developer.

Impact Zoning typically establishes performance standards and methods of evaluating the

impact of land use proposals rather than pre-determining specific trade-offs. The technique establishes a framework for negotiation between a developer and a local government for the purpose of generating a proposal that typically produces no overall negative or damaging impacts on the community. While clear that a well designed "innovative" ordinance can be a tremendous aid to local governments, if poorly designed, it can cause difficulties. Two initial caveats should be noted: 1) unless carefully planned and sensitively executed, innovative zoning may cause considerable uncertainty in present residents about what will actually be built nearby and its effect on their land values; and 2) the opportunity to exercise de facto exclusionary policies under the guise of cooperation is considerable with innovative zoning. It can easily be abused.

Generally, these three innovative zoning techniques offer both advantages and disadvantages:

The land use management process can be more responsive to complex social, economic and environmental objectives and problems but the attendant public hearings and technical reviews can be time consuming.

Site planning and land use design can reflect the unique characteristics of individual sites as well as community needs but intensive evaluation of proposals often requires a higher level of expertise among local planners and other staff members.

The opportunity to apply cost-saving development methods is increased, but so is the administrative cost of securing development approval.

Community goals, such as protecting environmentally sensitive areas or meeting specific housing needs, may be promoted but care must be taken to prevent arbitrary or capricious approval requirements which may then be struck down by the courts.

Each community must consider its own goals and objectives, the nature of development pressure in the area, its administrative capabilities, the operating legal structure, and other local factors as well as the present limitations of different innovative zoning techniques. This Digest is designed to enable your community to quickly identify the most appropriate sources of information. These sources should help answer questions about the potential for successfully using an innovative approach to land use controls in your community.

How To Use The Digest

In compiling the following list of references, over 200 documents were reviewed to select those that would give a general audience the basic starting point for doing more investigation on the three techniques. Not all of the documents are of equal weight or quality. Hopefully, this is due to the character of the literature rather than the mistake of missing good literature in a particular field. For example, with fiscal impact analysis, the job was to select one good document from among many good documents; for legal analysis of impact zoning, there was only one article that directly addressed the topic. Within each topic area we attempted to give the best available and most current literature for a general audience, but they should not be taken as the definitive works on the subjects.

The Digest has been organized into four major sections each with a brief descriptive introduction on the section:

1. General Material on Innovative Zoning
2. Planned Unit Development Zoning
3. Incentive Zoning, and
4. Impact Zoning

Each section covers materials that will give the user a substantial understanding of the basic concepts involved in the particular techniques, (General References), examples of how the technique is adapted to meet particular local situations, (Administrative Examples) and some legal and functional evaluations of each technique (Legal Analysis & Evaluations). Within each of these subheadings the references are organized so that the most recent material comes first.

At the end of the Digest a User Guide is provided. For those readers interested in finding a specific reference there is also a listing of the actual titles reviewed. Finally, a 200 entry bibliography on the three innovative and related zoning techniques is provided for those interested in further reference material. An index by subject and user type is also provided here.

In addition to these user aids each entry is divided into five parts so that critical information concerning each reference can be easily located. The standard format is as follows:

Title and Source

This provides you with information on obtaining the document. It must be realized that many of these documents are produced by local governments for their own use. They are often in limited supply, and while most governments will attempt to provide them for wider distribution as a general courtesy, they may run out or start charging for them if the demand becomes excessive. If useful, a reduced picture of the document's cover has also been included.

Contents

The basic parts of the document relevant to innovative zoning have been abstracted into a table of contents so you can quickly see if the subject matter in part or whole is likely to meet your special needs.

Summary

This section provides a brief synopsis of the ideas and approach of the document and is therefore particularly useful for you to get a feel for the flavor and general bent of the piece.

User Evaluation

All of the documents in this bibliography are useful. However, some are general in nature while others are designed for technical staffs of planning agencies. This section is designed to identify the character of each document. Often one book may have several different, but important, attributes, each of which may be of particular interest to different users. Therefore, a brief user evaluation is provided to help you narrow down on critical references or portions of references.

Additional Notes

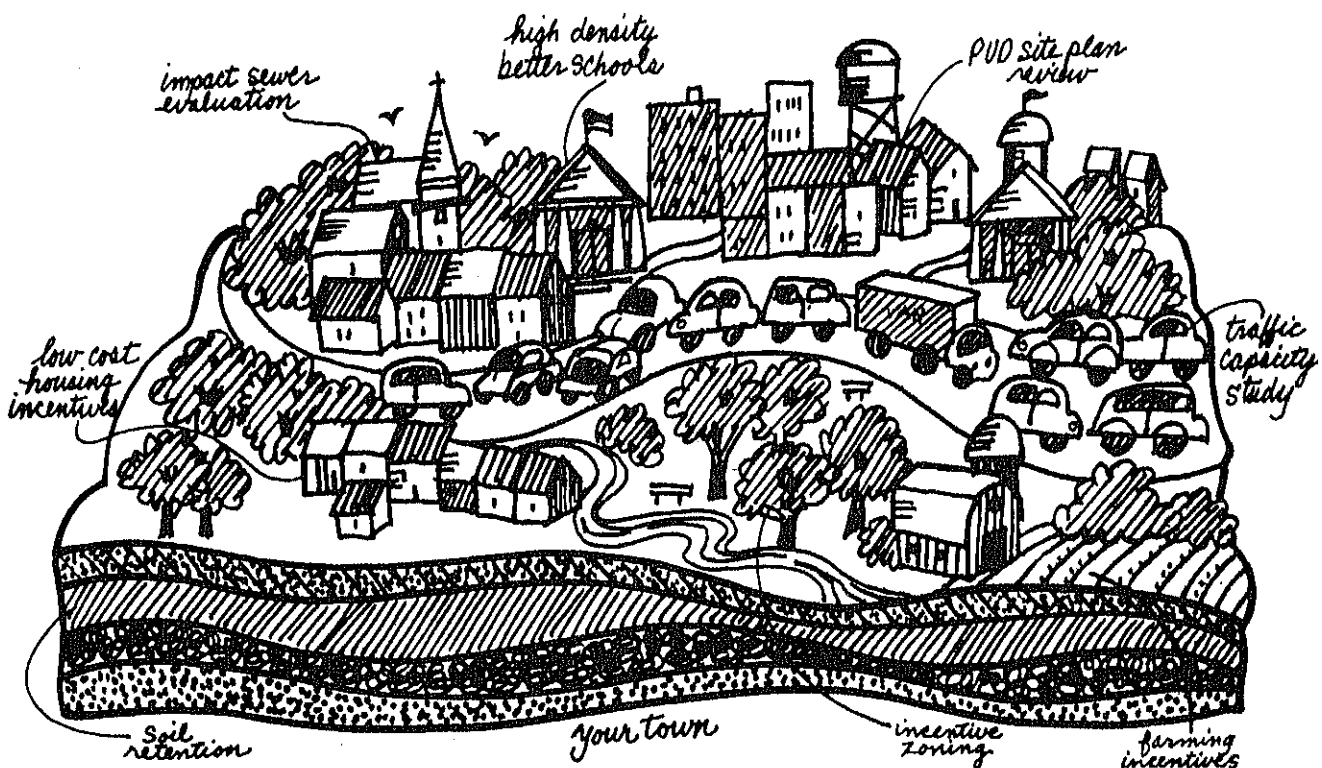
Where relevant, additional notes are included for further amplification of the material covered in the document. In some cases, this includes other documents not reviewed because of their limited interest, but primarily these notes are designed as a guide to experience that has not been recorded in published form.

For further information concerning the companion, Innovative Zoning Guidebook for Local Officials or for additional copies of the Digest please feel free to contact:

The U.S. Department of Housing and
Urban Development
Office of Policy Development and Research
451 Seventh Street, SW
Washington, D.C. 20410

2.

General References



Innovation in traditional zoning is an evolving process. Instead of an orderly, organized system that replaces traditional zoning, changes evolve slowly. This incrementalism has always posed problems for those attempting to evaluate and analyze zoning effectiveness. There is often no easy way of separating out the effects of the new elements.

The three categories of techniques covered in this bibliography are no exception. In their use, they are tangled with many elements of the use-by-right and special permit zoning. However, they do have one common thread: each of these new zoning devices allows, with the community, more discretionary

authority to match community objectives with the realities of development opportunities. They typically evaluate each development application against a set of legislated standards which, in turn, is used to establish in detail and with applicant participation, how the land is to be developed.

The references in this section can be used for two purposes. First, they all attempt to place three innovative techniques in the larger context of contemporary changes taking place in zoning. And second, they deal with the opportunities and pitfalls in making zoning more flexible or discretionary.

INNOVATIVE ZONING AND LOCAL REGULATORY PROGRAMS

1. Title and Source

AUTHOR: Franklin, Herbert M., David Falk and Arthur J. Levin
TITLE: In-Zoning: A Guide for Policy-Makers on Inclusionary Land Use Programs
SOURCE: The Potomac Institute, Inc., 1974, 212 pp. Washington, D.C. 20036 (202) 332-5566
COST: \$3.50

Contents

Local Self-Interest and Inclusionary Zoning
Basic elements of traditional zoning, legal criteria for the validity of land use regulations, legal duty to adopt and administer an inclusionary program, local growth management and inclusionary policies, and judicial intervention
Inclusionary Programs and the Larger Public Interest
Metropolitan benefits, emerging national inclusionary policies, state inclusionary action
The Nature of an Inclusionary Program
Assuring sufficient land, avoiding excessive housing costs, legal validity of an inclusionary land use program
Techniques for an Inclusionary Land Use Program
Criteria for selecting techniques for an inclusionary program
Flexible techniques - including incentive zoning, planned unit development, mandatory inclusionary techniques.

Summary

One of the basic attacks made on many of the new zoning techniques is their tendency to exclude low and moderate income housing from communities. This book turns this discussion around to investigate to what extent local governments can encourage the building of low and moderate income housing through these same innovative techniques. The goal of the book is to provide practical suggestions on how local decision-makers can take positive steps towards integrating their communities; for this, the authors have coined the term "inclusionary land use programs."

According to this book:

"the distinguishing mark of an inclusionary land use program is the application of local government's regulatory powers over land to facilitate the development of new housing for low and moderate income families. . . It is suggested in the literature that no specific flexible technique be chosen if a community adopts a pre-stated inclusionary land use policy through local legislative action." Part IV discusses "Techniques for an Inclusionary Land Use Program", including incentive zoning and planned unit development. The appendix to this section includes ordinance provisions in Fairfax County, Virginia, Montgomery County, Maryland, and Los Angeles, California.

Other parts of this book discuss the nature of local self-interest and larger public interest in inclusionary programs, the regional housing allocation plan and land banking as an inclusionary program. A selected bibliography is included.

User Evaluation

General Public: This is a scholarly study of the housing allocation problem, and at times it is stiff going. However, it is a basic text for all those groups interested in broadening the housing opportunities in their community. The initial chapter on local self-interest gives good background on the issues, and there are many examples throughout the book of what other communities have tried.

Elected and Appointed Public Officials: This book was designed for policy-makers. It provides them with a comprehensive discussion of how their local programs fit with emerging national and state policies as well as with the trends in court decisions concerning the provision of low and moderate income housing.

Public Agency Personnel: Public agency personnel will be interested in this book, not only for its general discussion of housing allocation, but also for its technical appendices which provide examples of local regulations that have made provisions for low and moderate income housing.

Lawyers: While the book is designed for policy-makers, the discussion is heavily oriented towards legal considerations. It goes into detail concerning litigation on exclusionary and inclusionary practices.

Landowners and Developers: This book should give landowners and developers information on including low and moderate income housing in their developments.

Additional Notes

This book takes the discussion of housing allocation through the Mount Laurel decision. There have been some important court decisions since its publication (such as the Oakwood v. Madison, N.J.), but this is still the most current general text on the topic.

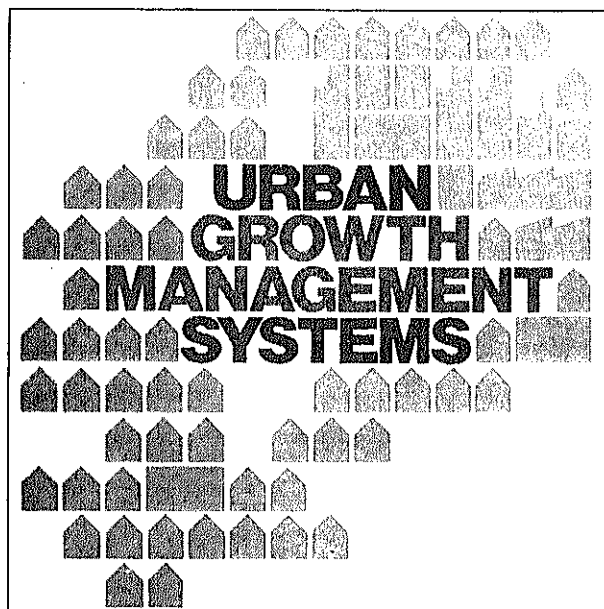
For a full discussion of the Mt. Laurel decision see: "Mt. Laurel An Advanced View of Zoning," *Land Use Law and Zoning Digest*, Vol 27 No. 6, 1975, which contains excellent discussions of legal constraints on zoning.

For additional discussions of how to meet Fair Share Housing Allocation requirements see: Rahenkamp, John, *Fair Share Housing: A Logical Tool for Managed Growth*, Stetson Press, 1717 Spring Garden Street, Phila., PA 19130. (1975), 12p.

For a legal discussion of a housing allocation model which was cited in the landmark Madison, N.J. case see: Kelly, Eric D., "Will the Housing Market Evaluation Model Be the Solution to Exclusionary Zoning?" *Real Estate Law Journal*, Spring, 1975.

2. Title and Source

AUTHOR: Gleeson, Michael, et al.
TITLE: Urban Growth Management Systems: An Evaluation of Policy-Related Research
SOURCE: Planning Advisory Service Report Nos. 309/310 141 pp.
American Society of Planning Officials
1313 East Sixtieth Street
Chicago, Illinois 60637
(312) 947-2115
COST: \$12.00; Subscribers: \$10.00



Contents

Thirteen Operating Urban Growth Management Systems

Boca Raton, Florida; Boulder, Colorado; Brooklyn Park, Minnesota; Dade County, Florida; Fairfax, Virginia; Loudon County, Virginia; Montgomery County, Maryland; Petaluma County, California; Pinellas County, Florida; Prince George's County, Maryland; Ramapo, New York; Sacramento County, California; Salem, Oregon

Growth Management Techniques

Administering A Growth Management System

Entry mechanism, administrative and intergovernmental coordination and cooperation, citizen participation, workload, and monitoring

Legal Considerations in Growth Management

Due process, equal protection, right to travel, eminent domain, and state constitutional provisions

Socioeconomic Impacts of Growth Management Systems

Environmental Impacts of Growth Management Systems

Bibliography (very extensive)

Summary

This report describes 13 communities that are in different stages of growth management systems, and analyzes the 55 techniques used to manage growth in the case study communities. Planned unit

development, performance standards, and (bonus) incentive zoning are only three of the 55 techniques cited in this report.

By presenting, analyzing, and commenting on growth management, this report serves as an introduction for communities designing their own systems. In addition to describing and analyzing the 13 communities and the 55 techniques, the report looks at the administrative implications of growth management, the demands placed on the administrative structure, and the way decisions are made. Further, the broad legal basis of growth management and socioeconomic and environmental studies of the existing systems are discussed.

This report relies exclusively on published documents and court cases — what communities say they are doing, rather than on what they are actually doing. It does, however, provide basic descriptions of the most important growth management systems and illustrates how innovative zoning techniques can be incorporated into large management schemes.

User Evaluation

General Public: This report provides the basics of growth management and it is well illustrated with examples.

Elected and Appointed Public Officials: This report covers many topics that will interest officials. It gives information on setting up the appropriate administrative structures to manage these systems, the key local issues that must be resolved, and the advantages that can come from working through intergovernmental cooperation.

Public Agency Personnel: While this report does not provide technical information for establishing growth management systems, it does contain an extensive bibliography which is one of the best guides to Growth Management literature.

Lawyers: The chapter on the legal considerations in growth management provides a good discussion of the legal issues.

Landowners and Developers: This report does not specifically address the interest of landowners and developers so it will be primarily of interest for its general discussion of these regulatory systems and how they operate.

Additional Notes

See also: Rosall, Nolan, "Boulder Pauses to Update It's Growth Management Plan" Practicing Planner, February, 1976, p. 13; and

Reference #5 in the Incentive Zoning section which deals with Ramapo's managed growth program.

3. Title and Source

AUTHOR: Marcus, Norman and Marilyn W. Groves (editors)
TITLE: *The New Zoning: Legal, Administrative and Economic Concepts and Techniques*
SOURCE: The Center for New York City Affairs, New School for Social Research, 1970 263 pp.
Praeger Publishers
111 Fourth Avenue
New York, New York 10003
(212) 949-8700
COST: \$15.00

Contents

Legal Aspects

Legislative Pre-Regulation v. Admin. Discretion
Basic Philosophy of Zoning: Incentive or Restraint
Innovative Land Regulation & Comprehensive Planning

The Fine Line Between "Regulation and Taking"
Special Districts: A Departure from Uniform Controls
Administrative Aspects
Divided Responsibilities & Conflicting Jurisdictions
Economic and Planning Aspects

Case Studies in Creative Urban Zoning
New York's Zoning to Induce Legitimate Theaters
San Francisco: Downtown Development Bonus System
Economic Aspects of San Francisco Bonus System
The Detroit Public Center and Public Center Area:
Mandatory Design

Review and Control Over Building Bulk

Appendix A:
American Law Institute, Model Land Development Code

Appendix B:
Excerpts from Majority Report of City Planning Commission, Concerning the Special Theater District

Appendix C:
Excerpts from Majority Report of City Planning Commission Concerning the Special Lincoln Square District

Appendix D:
The San Francisco Code; Development Bonuses

Appendix E:
Detroit's Zoning Ordinance, Sections Concerning the Public Center, Public Center Area Zoning Districts
Table of Cases

Summary

This book provides a comprehensive overview of the evolution and uses of innovative zoning concepts and techniques and their influence on the growth character of large cities, with particular attention to New York City.

In an article on the basic philosophy of zoning, Daniel R. Mandelker points out that prohibitory (traditional) zoning has been justified in the name of "externality protection". However, in distinctly urban settings, there has been a partial shift in emphasis from land use to density and intensity of development as the organizing concept in zoning. As an answer to possible constitutional objections, the administrative process is used to strike a balance between increased density allowances and developer's cost for public benefits. The experiences of Rosslyn, Virginia are used to point out several legal

issues (right versus discretion, validity of density as a basis for control, maintaining public commitment over time) that are likely to occur in the administrative process.

Another article, by I. Michael Heyman, examines the relationship between innovative land regulation and comprehensive planning.

Citing numerous judicial responses, this article traces the evolutionary changes in traditional zoning (the parcel zoning amendment, variances, special permits, conditional, etc.), identifies trends toward requiring developers to contribute land for money, or to undertake particular development, and describes a planning process that is stated not only in physical terms, but also in relation to social and economic problems and goals. The conclusion here is that such techniques are proper when based on "comprehensive planning".

The remaining chapters on legal aspects further discuss basic zoning issues from which innovation has evolved. Case studies of incentive zoning in New York, San Francisco, and Detroit are covered in the final part. The appendices provide details on various incentive ordinance provisions (e.g. definitions, districts, uses) as well as the American Law Institute, Model Land Development Code and Commentary on Article 8.

User Evaluation

General Public: Participation by the general public (and elected officials) in the adoption process is given in a rather humorous, personal account by Richard Weinstein of, "How New York's Zoning was Changed to Induce the Construction of Legitimate Theaters".

Elected and Appointed Public Officials: Although academic in nature, this book provides a comprehensive view of the evolution in land use regulation in general. The case studies provide more concrete discussions that link particular public interest objectives with specific innovative techniques.

Public Agency Personnel: Part III and the appendices contain actual ordinance provisions as well as other technical details. The discussion session by conference participants explores both administrative form and function.

Lawyers: Numerous legal aspects (issues and problems) on land use regulation, in general, and innovative zoning, in particular, are discussed in Part I. In addition to the many citations throughout the text, a table of cases is presented in the appendix.

Landowners and Developers: Although oriented toward lawyers and the public interest, of concern are such issues as "due process," "equal protection," and the like that are discussed in Part I on legal aspects. An article by Herman D. Ruth on the economic aspects of San Francisco's bonus system briefly describes cost estimates for these specific building features. This article also explains the method for evaluating bonuses.

Additional Notes

This book contains papers prepared for and proceedings from a three-day conference attended by more than 30 zoning experts that was conducted by the Center of New York City Affairs of the New School for Social Research in cooperation with the New York City Department of Planning in May, 1969.

ADMINISTRATION OF INNOVATIVE ZONING

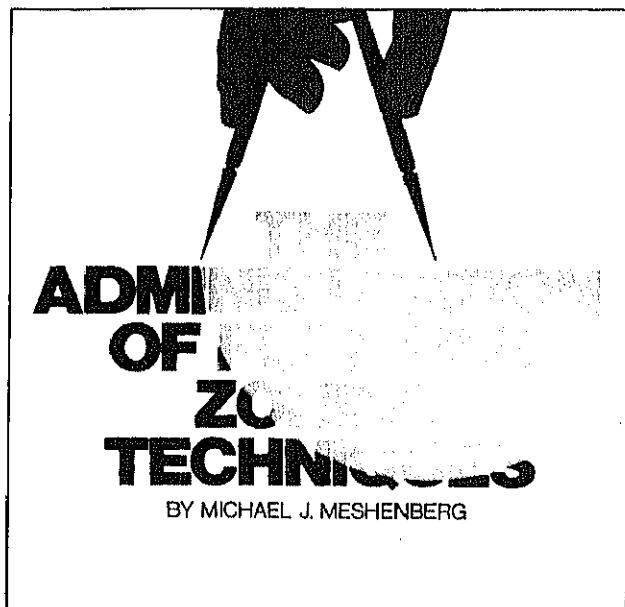
4. Title and Source

AUTHOR: Meshenberg, Michael J.

TITLE: The Administration of Flexible Zoning Techniques

SOURCE: Planning Advisory Service Report No. 318
June 1976, 62 pp.
American Society of Planning Officials
1313 East Sixtieth Street
Chicago, Illinois 60637
(312) 947-2115

COST: Subscribers: \$5.00



Contents

Comparison of Discretionary and As-Of-Right Zoning

Advantages and disadvantages

Description and Analysis of Flexible Techniques

Type, administration, negotiation, and standards

Planned Unit Development

Basic elements, standards, relationships to comprehensive planning and housing opportunity

Incentive Zoning

Process, standards, relationship to comprehensive planning, and housing opportunity

Impact Analysis Tools

Forecast probable impacts, limitations, designing control systems, zoning, standards, relationship to comprehensive planning, and housing opportunity

Bibliography

Summary

The use of innovative zoning techniques can complicate the traditional land use management process. This comprehensive report relies primarily on secondary sources to describe many of the inadequacies of conventional zoning systems, document the movement towards greater flexibility in the administration of local zoning and related

controls, identify the opportunities and risks involved with flexible techniques, and offer guidelines and recommendations for the use of such techniques in general. Analyzed in detail are two of the critical elements involved with the use of flexible techniques: negotiation (or bargaining) and the use of standards as a basis for decision-making.

Of the range of flexible techniques, ten were selected for more specific analysis: PUD, special permit, overlay zoning, floating zone, conditional rezoning, contract zoning, incentive zoning, subdivision exactions, transfer of development rights, and impact zoning. Since many of these techniques can be used to accomplish similar objectives, the particular techniques, and their combinations, must be tailored to local conditions and needs.

PUD, the report concludes, offers most of the opportunities and dangers of discretionary approaches in general. It is the site plan review process in which development flexibility, negotiation, and discretionary application of standards comes into play and which is the main procedural distinction between PUD and conventional developments. Incentive zoning, on the other hand, appears to be among the more manageable and productive of the flexible techniques and deserves considerably more exploration. Finally, it is pointed out that impact (performance) zoning replaces the traditional use specifications with a broad set of performance standards, and offers considerable potential.

User Evaluation

General Public: This report distinguishes flexible techniques from conventional zoning and from each other.

Elected and Appointed Public Officials: Discussed are both the opportunities offered and risks involved with the use of innovative zoning techniques. The effects of flexible techniques in general and individual techniques in particular on housing opportunity are examined. The role of the governing body is explored in terms of increased responsibility.

Public Agency Personnel: Because of its broad scope, this report can serve as a guide or first reference to the issues of flexibility and discretion in land use regulation. Discussed here are several basic planning and regulatory issues that planners, managers, and attorneys involved in writing and administering zoning and other land use regulations must consider.

Lawyers: Many basic legal doctrines are summarized.

Landowners and Developers: Many key issues in the negotiation process directly involve developers as well as public agency personnel.

Additional Notes

This report is based on a paper prepared in 1975 for, and with financial assistance from, the Advisory Commission on Housing and Urban Growth of the American Bar Association. An executive summary and complete 800-page volume with comprehensive legal citations, documentation, and references of the Commission are available:

Fischman, Richard P. (editor), *Housing for All Under Law: New Directions in Housing, Land Use, and Planning Law*, Ballinger Publishing Company, 17 Dunster Street, Harvard Square, Cambridge, Massachusetts 02138, (617) 492-0670

LEGAL ASPECTS OF INNOVATIVE ZONING

5. Title and Source

AUTHOR: William, Norman Jr.
TITLE: American Land Planning Law: Land Use and the Police Power
SOURCE: Callaghan and Company, 1974, Five Volumes
6141 North Cicero Avenue
Chicago, Illinois 60646
(312) 283-1711
COST: \$225.00

Contents

Volume 1
The Plan and Its Implementation
Nature of Land Use Conflicts, and the Resulting Litigation
The Impact of the Judicial Process
Major Goals of Planning and Land Use Controls, and Judicial Attitudes Toward Such Goals
The Preeminence of Zoning, and Basic Zoning Concepts
Statutes and Ordinances
The Planning Background Required for Zoning
Residential Zoning
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Residential Zoning
Volume 4
Conflicts Between Residential Nonresidential Land Use
Commercial
Industrial
Off-Street Parking Requirements
Nonconformity
Signs
Volume 5
Administrative Aspects of Zoning
Other Legal Controls
Preservation of Open Space
State and Regional Land Use Controls
A Look Toward the Future

Summary

"In American planning law, the policies adopted by the courts have played as great a role as the underlying enabling legislation." These five volumes are the most comprehensive treatment of American planning law to date. The case law includes all pertinent decisions of the highest and intermediate state courts reported in the official record. The comprehensive legal research, finished in 1972, has been updated to mid-1974. While the work does not cover the growing trends toward federal and state control of land use, it is an invaluable reference tool.

In addition to its comprehensive handling of case law, a special feature is the inclusion of field work—"to find out what actually happened in connection with the substantial number of leading

cases in this field". This field work provides information on the experiences of local officials in implementing and administering zoning law that is noticeably lacking in other legal treatises on land planning.

Within the breadth of topics indicated by the extensive contents are several explicit references to innovative techniques. Chapter 48 (Volume 2), "Planned Unit Development" for example, states that "the most distinctive feature of PUD is the frequent inclusion of residential and non-residential uses." PUD, it is contended, provides nothing new as compared with a zoning ordinance that contains general residential districts, clustering, regulating the timing of development, and site plan review. Chapter 49, Volume 2, "The Bonus Principle" identifies a number of "quasi-bonuses" that apply automatically in certain locations. Lower court, and court of appeals decisions on Ramapo, New York are discussed in Chapter 73 (Volume 3), "Timing of Development".

User Evaluation

General Public: In spite of its formidable size, these volumes are easy to use by anyone concerned with land use planning law. And while it has limited use for the general public, it is a reference document that groups working with land use regulations may want to consult for technical information.

Elected and Appointed Public Officials: These volumes investigate the relationships between planning law and public policy or interest but generally, one will probably make these volumes a staff assignment.

Public Agency Personnel: These volumes can be more useful than the typical case law books. They include field work experience which adds considerably to the discussion of planning and zoning intricacies.

Lawyers: Land-use attorneys will find the document controversial in sections, but it is germane.

Landowners and Developers: Trends in planning and zoning are identified and analyzed, and it can be used as a reference tool.

Additional Notes

Unfortunately, this work is expensive and may be beyond the budgets of many agencies and individuals; however, it should be available at regional libraries.

For general background to zoning law, the two articles identified in *The New Zoning* (this section, entry number 3), give sufficient information for most people concerned about these problems. They are a better starting point than these volumes.

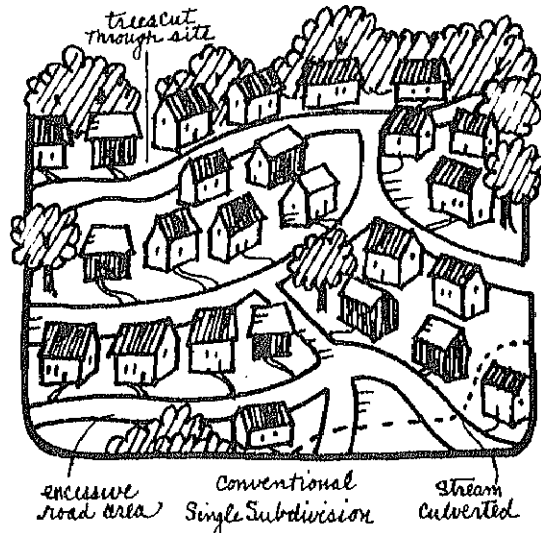
In addition to this work, one should also be aware of two other works that deal with special legal issues in innovative zoning.

Fred Bosselman, David Callies and John Banta, *The Taking Issue: A Study of the Constitutional Limits of Governmental Authority to Regulate the Use of Privately-owned Land Without Paying Compensation*, U.S. Government Printing Office, 1973, 329 pp., \$2.35

John Kusler, "Open Space Zoning: Valid Regulation or Invalid Taking", *Minnesota Law Review*, Minnesota Law Review Foundation, University of Minnesota Law School, Minneapolis, Minnesota 55455, November, 1972.

3.

PUD Zoning



Planned Unit Development (PUD) is perhaps the best known and most used innovative zoning technique. It is a device that permits variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements as well as the timing and sequencing of the development. PUD, under a single regulatory umbrella, offers greater flexibility while providing the opportunity for tight design controls. The key to the process is a specified site plan review process.

PUD zoning has been used to increase the flexibility of design options in all types of zoning districts: residential, commercial and industrial. It is used most commonly in residential development. Clustering buildings; mixing housing types, such as detached houses, townhouses, or garden apartments; combining housing with such other auxiliary uses as neighborhood shopping centers; designing better open space; and retaining such natural features as floodplains or steep slopes are typical characteristics of PUD ordinances. Through such flexibility there is also a greater opportunity for providing lower-cost housing which is infrequently used.

It is in the site plan review process in which development flexibility, negotiation, and discretionary application of standards come into play. However, there is no such thing as the typical PUD ordinance and there is no standard operating procedure from community to community. Some legislatures establish few substantive requirements; others establish numerous specific requirements. If this review process is misused, communities can get stuck with unexpected public costs or unfavorable court decisions resulting from unfair exactions and the longer and more expensive processing time can increase instead of decrease housing costs. However,

there is a wealth of experience with the technique and probably more literature on the method and both its positive and negative results than any other new zoning approach.

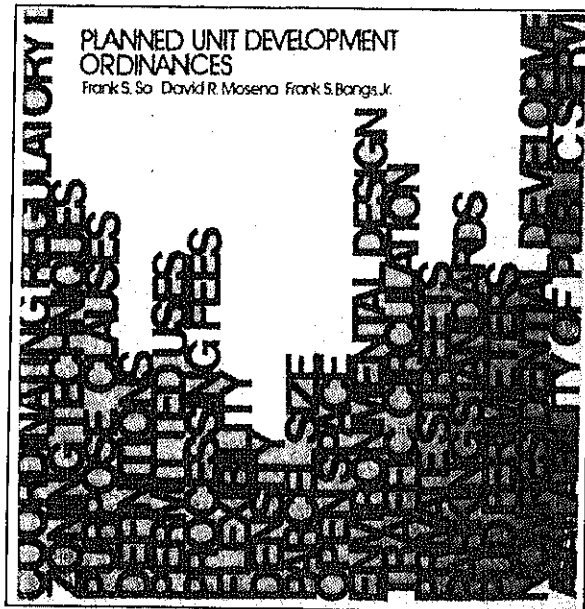
Mixed housing and open space are probably the two best known attributes of PUD. The inclusion of specific site plan review is recognized as a valuable planning tool in its own right and so this part of the PUD process is gaining better understanding. Another significant legislative difference between PUD and conventional zoning is not so well understood. This is the vesting of special legal rights to both developer and community. Through the site design review and phasing plan requirements, the developer commits and legally records a specific plan of action. Unlike standard rezoning cases where pretty pictures of promised plans can mean little or nothing, PUD plans are officially filed and, if significantly deviated from, the contingent approval can be withdrawn. Thus, the community is far better assured of actual "delivery". In return the developer is vested with a plan approval for the full number of years he needs to build the project. As long as he abides by this approved plan and schedule he has the assurance that the zoning can not be changed on him.

This double edged sword can protect both the public and private participants in the development process and can keep both more honest. In an era of larger builders and landholdings, this technique may provide decided advantages over conventional procedures. However, many communities are choosing Cluster Zoning with several of the PUD features, but lower densities and less complex negotiations, as a more suitable entre into the area of innovative land use controls.

GENERAL REFERENCES

1. Title and Source

AUTHOR: So, Frank S., David R. Mosena, and Frank S. Bangs, Jr.
TITLE: Planned Unit Development Ordinances
SOURCE: Planning Advisory Service Report No. 291, May 1973, 66 pp.
American Society of Planning Officials
1313 East Sixtieth Street
Chicago, Illinois 60637
(312) 947-2115
COST: \$8.00; subscribers \$6.00



Contents

Premise, Purpose, and Methodology
Emergent Trends and Attitudes About PUD
Basic Ordinance Mechanics
Zoning techniques, coordinating regulatory devices, purpose clauses, definitions, permitted uses, ownership requirements, availability of public service, processing fees.
Site Plan Review Procedures
Principles, procedures, requirements, amendments, and enforcements
Design Standards
Density, parcel size, open space, environmental design, traffic circulation, private streets, parking, non-residential development
Legal Aspects and Problems of PUD Ordinances
The Land-Use Intensity Rating System

Summary

This comprehensive report is based on a national survey, assisted by the National Association of Homebuilders, of 300 planning agencies and

300 developers. It includes an analysis of emerging development trends in PUD, and the attitudes of planners and public officials toward PUD.

The primary emphasis of this report is on technical details. Covered are basic ordinance mechanics such as ordinance definitions, purpose clauses, permitted uses, and the use of processing fees. The report discusses how PUD has been adopted by different communities (e.g., separate districts, floating or overlay zones, or a special use district). Step-by-step administrative procedures for site plan review are spelled out from pre-application conferences through procedures to make amendments to developing plans. Included are details on design standards, including numerous ordinance examples taken from ordinances in use around the country. Standards covered are: density, parcel size, open space, environmental design, traffic circulation, private streets, parking, PUD perimeters, and how to treat commercial development in residential PUDs. Arguments for and against a range of variations typically found in standards are given. The legal issues, along with a review of prior court decisions, are discussed. Finally, The Land-Use Intensity Rating System, introduced by the Federal Housing Administration based on floor area instead of land area, is explained.

User Evaluation

General Public: Table 1, "Attitudes toward PUD as Viewed by Planners and Developers", points out that the general public may be more inclined to view PUDs as unfavorable. There is an initial brief discussion on educating the public toward the flexibility inherent in the concept of PUD instead of the commonly negative held impression of PUD as a product with increased density.

Elected and Appointed Public Officials: The discussions of emerging trends, attitudes and realities indicate several policy considerations.

Public Agency Personnel: This technical document is designed to assist planning agencies to write PUD ordinances and revise existing ones, and deals with two major elements of PUD regulations: the administrative procedures for processing development proposals, and the substantive design standards basic to quality development.

Lawyers: Many legal issues and case citations are discussed.

Landowners and Developers: This document is one of the most complete overviews of developers and local officials attitudes toward PUD to date.

Additional Notes

While this report was written in 1973, the PUD administrative techniques discussed are still valid. However, it is worthwhile to contact communities that have recently been written or revised their PUD ordinances such as Sioux City, Iowa and Fairfax County, Virginia.

For a more recent, comprehensive analysis on the use of the LUI (land-use-intensity) system as a zoning technique see:

Bair, Frederick, H. Jr. **Intensity Zoning: Regulating Townhouses, Apartments, and Planned Developments.** Planning Advisory Service Report No. 314. American Society of Planning Officials, 1313 East Sixtieth Street, Chicago, Illinois 60637, Feb. 1976, 39 pp.

2. Title and Source

AUTHOR: Burchell, Robert W. (editor)
TITLE: *Frontiers of Planned Unit Development: A Synthesis of Expert Opinion*
SOURCE: Center for Urban Policy Research, 1973, 329 pp.
Rutgers—The State University of New Jersey
New Brunswick, New Jersey
(201) 932-3133
COST: \$15.00

Contents

Planned Unit Development As a Permanent Part of the Land Use System
Role of Large-Scale Residential Development in National Growth Policy
PUD in Practice: State and Legislative Response
New Communities American Style
Planned Unit Development—New Towns Public Policies
Comments and Discussion
The Theoretical Achievements and Practical Limitations of Planned Unit Development
Legal Aspects of Planned Unit Development in Theory and Practice
New Jersey Municipal Planned Unit Development Act of 1967
Planned Unit Development: Internal Procedures and External Effects
Planned Unit Development: Bargaining Process and Environmental Impact Statement
Comments and Discussion
Planned Unit Development, Social Mix and Community Satisfaction
Evaluating Resident Satisfaction in Establishing Communities
Friends and Neighbors in a Planned Community
Some First Returns on Planned Unit Development
Pluralistic New Towns
Comments and Discussion
Planned Unit Development Legislation: A Summary of Necessary Considerations

Summary

This is a well organized book on many theoretical and practical planning issues regarding PUDs. Included are papers, critiques, and discussions from a conference held in June 1973. Considered are questions concerning the theory or practice of PUD and how the technique is working in terms of resident satisfaction or community cohesiveness.

Each of three sessions contains an introduction, development papers, comments, and a panel discussion that provides an unusual analysis of the disadvantages as well as the advantages of PUD. In session one, Anthony Downs reports that it will be a long time before PUD becomes the dominant form of development control in the United States, since only about 3 percent of the housing built in the last five years has been PUDs or new towns of some form or the other. Similarly, in another attempt to provide the other side of what is usually a positive opinion of PUD, Norman Williams, Jr., suggests in session two that the PUD mechanism is going to be a form of exclusionary zoning.

The second session provides discussion by land use law experts on the original model PUD act, the ability to control tempo and sequence of development through PUD, and the evolutionary nature of PUD.

Session three includes several studies that evaluate people's responses to highly planned residential environments. Among the concerns expressed are those of homogeneity (race, age, income, and occupation), and monopoly (control by a single developer, or corporation).

Finally, a legislative summary presents some of the basic considerations that must be undertaken prior to developing a local planned unit development ordinance. A statement of principles and goals are arranged in logical sequence.

User Evaluation

General Public: In addition to the general discussion of the relationship of PUD to the overall national land use system, of particular interest are the responses of PUD occupants discussed in session three.

Elected and Appointed Public Officials: The first session discusses PUD in the overall context of explicit and implicit land use policies.

Public Agency Personnel: Many of the critical issues involved with administering PUD ordinances are discussed in session two (e.g., the problems involved in controlling the internal staging and growth of Planned Unit Developments) and the appendix includes some of the basic considerations involved in drafting a PUD ordinance.

Lawyers: Legal issues and analysis permeate this reference. More specifically, however, a review of state enabling legislation for PUD is discussed in session one, and session two includes a preliminary discussion of some basic legal questions resulting from the increasing use of PUD ordinances: validity, density, design, and procedure aspects.

Landowners and Developers: The discussions on residents' satisfaction contain numerous implications for market analyses.

Additional Notes

For more information on resident evaluations of planned residential environments including, but not limited to PUDs, see the following two reports.

These reports assess residents' overall responses to planned residential environments and their responses to particular features of these environments:

Lansing, John B., Robert W. Marans, and Robert Zehner, *Planned Residential Environments, Survey Research Center, Institute for Social Research, 1970, 269 pp. The University of Michigan, Ann Arbor, Michigan 48106, (313) 764-8365.*

Levin, Michael, *People and Plans, Facts and Figures: A Study of the Pine Run PUD*, Stetson Press, Philadelphia, PA 19130, (215) 568-7545.

In addition to a collection of facts and figures, this report contains many direct quotes in which people give their opinions about such questions as: Is townhouse living for everyone? How much density is just right, or too much?

Norcross, Carl, *Town Houses and Condominiums: Residents' Likes and Dislikes*, ULI-The Urban Land Institute, 1973, 105 pp., 1200 18th Street, NW, Washington, D.C. 20036, (202) 331-8500.

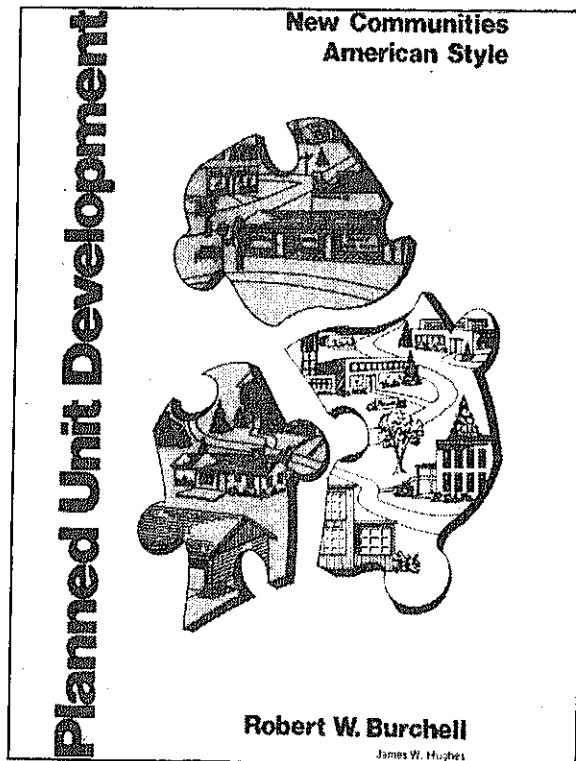
For discussion of the legal aspects of PUD see: Krasnowiecki, Jan, Babcock, Richard F., McBride, David N. *Legal Aspects of Planned Unit Residential Development with Suggested Legislation* Technical Bulletin #52, Urban Land Institute: Washington D.C., 1965.

3. Title and Source

AUTHOR: Burchell, Robert W. with James Hughes
TITLE: Planned Unit Development: New Communities American Style

SOURCE: Transaction Books, 1972, 254 pp.
Building 4051
Rutgers--The State University of New Jersey
Livingston College
New Brunswick, New Jersey 08903
(201) 932-2280

COST: \$12.95



Contents

The Origins of Planned Unit Development
A Novice Planned Unit Development: A Model of Future Suburban Residential Development
Planned Unit Development: Definition, Process, Impact
The Inhabitants of a PUD and Their Housing Costs
The Cost of Municipal Services For a PUD
Cost of School Services for a PUD
Substantive Conclusions and Emerging Policy Recommendations to Various Policy-Making Units
Appendix 3: A Model Planned Unit Development Ordinance

Summary

This book describes the basic groundwork for planned unit development, and it remains one of the prime textbooks on the subject. It provides an example of a comprehensive evaluation of PUD — looking not only at the implementation of PUD, but also attempting to evaluate it in terms of the individuals living in PUD's and the cost and benefits of PUD's to a community.

The authors show that PUD "is really nothing

new, but rather a growing sophistication of the existing means of land use control". The book goes on to build a case in favor of PUD. PUD provides a "bargaining procedure" which "leads to properly phased development whose local impact is steady and largely predetermined. If properly phased, even if a developer fails to complete a project, adequate failsafe provisions at every stage of development are insured. The very scale of the typical PUD development permits the inclusion of levels of amenity which more conventional patterns of real estate activity simply cannot incorporate."

The analytical parts of the book use a detailed case study of Twin Rivers, New Jersey. The study calculates the effects on municipal and school service costs, investigates the development's cash flow realities, and examines the social characteristics of its resident population.

User Evaluation

General Public: Included in Section 2 are easy-to-read tables on tenant characteristics; a comparison of housing, social, and demographic characteristics of residents in a PUD and other planned developments; a comparison and construction cost for a PUD and a single home alternative; and a comparison of occupancy cost for a PUD and single-family home alternatives.

Elected and Appointed Public Officials: Municipal costs for a PUD are analyzed in terms of expenditures (general government administration, community development, transportation and public facilities, protection of persons and property, health and welfare, and cultural and recreation enrichment); and revenues (receipts and property tax revenues).

Public Agency Personnel: In addition to federal and state policy recommendations, included are local policy recommendations related to decisions to consider PUD legislation, decisions to permit development, and decisions to permit subsequent PUD development. A discussion in Section 2 shows the difficulty in measuring the tempo and sequence of PUD development. The model Plan Unit Development ordinance contained in the appendix can be used as a reference tool for drafting a local ordinance.

Lawyers: Although this book does not go into detailed discussion of the legal issues of PUD, its discussion of the origins of PUD will be interesting to land use attorneys.

Landowners and Developers: In determining the impact of a PUD, this investigation reveals the critical community characteristics on which potential community developers focus (e.g., contiguous vacant land).

Additional Notes

Phoenix, Arizona, has conducted an analytical study of the city's 183 approved planned area developments (PAD) dealing specifically with city maintenance of private streets, lighting, and density of projects. For a (draft) report that includes a summary of observations taken from the study on design review and administration, contact:

Phoenix Arizona Planning Department
251 West Washington
Room 601
Phoenix, Arizona 85003
(602) 262-6655

4. Title and Source

AUTHOR: Huntoon, Maxwell C., Jr.
TITLE: PUD: A Better Way for the Suburbs
SOURCE: ULI-The Urban Land Institute, 1971.
72 pp.
1200 18th Street, N.W.
Washington, D. C. 20036
(202) 331-8500
COST: \$8.00; Members \$6.00

Contents

PUD: What It Is

A Shift from Single-Family Detached Housing
Response of a Typical Suburban Resident
A Statistical Comparison of Tax Revenues Between
Development Under Existing and PUD
Improved Project Design
More Front Money Yields a Greater Return in the
Long Run

PUD: What It Looks Like

Case Studies and Project Information:
Mission Hills, Bay Meadows, Village Green,
Briarwood Lakes, Heritage Woods, Bahl Patio
Homes, Pine Run, Oronoque Village, Nuns' Island,
Inverrary, Saybrook Mews, Sixty-01

Summary

The primary aim of this well illustrated report is to provide the non-professional with a broad picture of PUD. This report is the best explanation and illustration of the PUD concept for the general citizen.

Covered here are the conditions that have brought increased attention to PUD, and the potential benefits it offers to communities that use it.

Finally, twelve case studies from across the country have been selected to illustrate with excellent photographs and plans of many varieties of PUD and the advantages of PUD zoning.

User Evaluation

General Public: This report is designed for non-professionals and covers the broad aspects of PUD. It is well organized and both eminently readable and informative.

Elected and Appointed Public Officials: The costs and benefits of a conventional project are compared to a PUD with increased density and one with no changing density.

Public Agency Personnel: Information on each of the 12 projects includes site area, total number of dwelling units, land uses, price and development team.

Lawyers: This may be of general interest but there are no legal analyses or case citations.

Landowners and Developers: A flexibility inherent in PUD development may increase the potential for "more fresh, innovative design". It is reported that in terms of front end money, the PUD is much more expensive than the conventional single-family project, although often more profitable in the long run.

Additional Notes

There are a number of visual programs that can be used along with this report to explain the basic concepts of PUD. Among the best of these are:

Planned Unit Development: A Flexible Concept for Land Use, Shelter, and Community. Available from National Association of Home Builders, Land Use and Development Department, 15th and M Streets, N.W., Washington, D.C. 20005, 80 slides, 35 mm, cassette tape or script, \$40.00.

A clear, concise explanation of PUDs and their many advantages. Features four outstanding and varied projects in different parts of the country.

Planorama. Available from National Association of Home Builders, Land Use and Development Department 15th and M Street, N.W., Washington, D.C. 20005, approximately 6 min., 35 mm slides, script, \$15.00.

The advantages of cluster planning with open space are illustrated by the use of a model. Comparisons of conventional, cluster, and PUD design are made upon a single tract of land.

The PUD Film. Available from Association-Sterling Films, 600 Grant Avenue, Ridgefield, New Jersey 07657, 27 minutes, 16 mm film (color), \$85.00.

This is a presentation on the use of PUD as a sensible way to accommodate community growth. Emphasis is on the PUD development process and its use as a tool of community acceptance.

PUD: A Flexible Land-Use Concept: Available from Minnesota State Planning Agency, Training Officer, 550 Cedar Street, St. Paul, Minnesota 55101, 24 minutes, 35 mm slides, cassette tape, rental fee: none.

The topic of PUD is discussed in theory and practice. Details such as sideyard requirements, lot standards, open space, and single-family and multi-family residences are examined. Examples are shown, and present a good overview about what PUDs are, their history, and how they are being utilized today. This is for planning commissions, county and municipal officials and staff, developers, and interested citizen groups.

No Room in the Suburbs: by the Montgomery County Citizens Council, Norristown, PA, 30 minutes, 16mm movie with sound.

This is a stimulating movie about the housing problems in the greater Philadelphia area and how PUD is one way of addressing the problem. The photography is excellent, the problems of lower income families, commutation, taxes, environmental protection, etc. are presented simply and in a realistic manner. Examples of PUD alternates are shown in both the planning stages and as built. This is good for lay audiences, planning commissions and interested citizens

The Zoning Game: available from the Pennsylvania State University Continuing Education Program of the Extension Service, Black and white video cassettes, each 30 minutes long with accompanying text and teaching materials.

This is a prepared dramatization of the public hearing process used to present and discuss a Planned Residential Ordinance (PRD) and then another hearing a year later at which the first PRD application is reviewed. This is a very realistic, humorous and lively representation of the local zoning process. It has been used extensively in Pennsylvania.

ADMINISTRATIVE EXAMPLES

5. Title and Source

AUTHOR: Schaumburg Planning Department
TITLE: Planned Unit Development—Community Association Study: A Report on Problems Encountered in Schaumburg
SOURCE: Village of Schaumburg, February 1977, 29 pp.
101 Schaumburg Court
Schaumburg, Illinois 60193
(312) 894-4500
COST: \$2.50

Contents

Descriptions of PUDs, Condominiums, Townhouses, and Community Associations
Analysis of National Trends and Problems and the Schaumburg Community Association Survey
Causes of Physical and Financial Problems
Recommended Amendments to the PUD Ordinance, Future and Existing PUDs
The Future of PUD and Community Associations
Appendix C: Section 2101 from H.R. 10612-Tax Reform Act of 1976
Appendix D: Grant of Easement Proposal

Summary

Many of the 36 approved PUDs in Schaumburg are already experiencing problems while initial buyers are still being sought. Consequently, this technical study was conducted to determine the character and extent of the problems, and to determine what can be done to correct existing and to prevent future problems.

Among the key physical problems identified are:

- Building code violations and other defects of workmanship.

- Non-provision of common facilities that were promised by the developer.

- Landscaping defects.

- a. non-provision of landscaping such as trees and shrubs.

- b. drainage problems

- Inadequate parking

- Narrow streets

Included in this report are several recommendations to minimize problems in PUDs. One of the key PUD guideline amendments is the "Maintenance of Open Spaces and Buildings." This amendment is cited in the text.

Among the recommendations for future PUDs are these:

- The amount of private facilities should be minimized and the planning and/or engineering department should undertake on-site inspections.

- In addition to proposed financial and performance-related requirements, it is recommended that a booklet be produced by the department that PUD

developers would be required to hand out as their sales brochures to all prospective buyers.

In order to reduce financial difficulty in existing PUDs, Schaumburg has proposed a cost-sharing system for privately owned streets and utilities in PUDs that are controlled and maintained by a community association.

User Evaluation

General Public: Homeowners will find particularly interesting discussions on the relationship between homeowners associations and developers as well as the results of the community association survey.

Elected and Appointed Public Officials: There is brief discussion of inequitable taxation in PUDs with owner-occupied units.

Public Agency Personnel: Numerous recommendations are made here to minimize problems in PUDs. In addition to the proposed amendment to the PUD ordinance, "maintenance of open space and buildings", recommendations are made for existing and future PUDs. Municipalities with PUDs may also find useful sections of the appendix on tax treatment of certain associations and grant of easement proposal.

Lawyers: This report is of general interest with no specific legal analysis.

Landowners and Developers: Of interest are discussions on developer control of community associations and responses from the presidents of homeowners associations about their operations.

Additional Notes

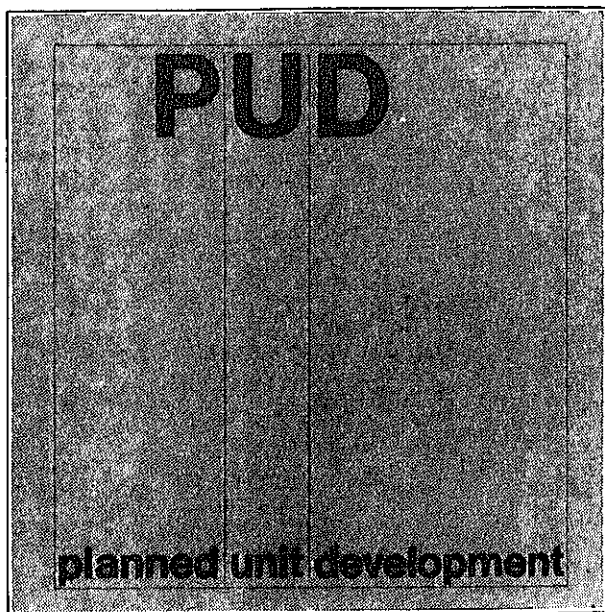
Phoenix, Arizona is also in the process of analyzing their PUDs similarly to Schaumburg, see this section, entry number 3, additional notes. See also:

Another Way: Clustering, PUD's, New Communities, Div. of State and Regional Planning, Trenton, N.J., 1974, 16 p.

New Communities Policy & Development in the United States: A Fifty State Survey, Div. of State and Regional Planning, Department of Community Affairs: Trenton, N.J., 1973, 69 pp.

6. Title and Source

AUTHOR: The Urban Design Group
TITLE: Planned Unit Development
SOURCE: The New York City Planning Department, 1968, 40 pp.
Office of the Mayor
Two Lafayette Street
New York, New York 10007
(212) 586-3501
COST: Free



Contents

PUD: What It Is and How It Works
PUD: Design Principles
PUD: Table of Comparative Advantages
PUD: Site Planning Alternatives
How A Developer Applies For A Planned Unit Development
Provisions of the Zoning Resolution Governing Planned Unit Development

Summary

This report outlines the most significant features of the Planned Unit Development amendment to the zoning resolution with examples of design alternatives, a model developer's application and the text of relevant zoning resolution provisions. This production is well organized, and informative.

Recommendations are made for establishing the character of a residential environment in terms of 1) streets (said to be the most important element); 2) sidewalks and pedestrian ways; 3) utility placement; 4) site characteristics including trees, contours, water, open space development; and 5) housing and placement of houses on lots. A table shows land use and site utilization advantages (in terms of gross site area, street area, street area percent of gross site area, net site area, common open space, number of dwelling units, allowable floor area per dwelling unit, allowable coverage per dwelling unit, allowable number of rooms per dwelling unit) of three different schemes of Planned Unit Development over a conventional subdivision scheme. The full range of

site planning opportunities possible under PUD are illustrated by an aerial photograph of an actual site in South Staten Island, a drawing of the site topography, a conventional proposal for development of the site, the site with townhouse clusters on collector streets, the site with varied house types on loop streets, site with house clusters and apartment houses, and site with apartments for maximum open space.

The preliminary submission and final submission procedures for applying for a Planned Unit Development are explained. Finally, the general purposes, definitions and general provisions of the PUD amendment are presented.

User Evaluation

General Public: This report explains PUD in simple language, and easy-to-follow format. Discussed are some of the advantages for people living in a Planned Unit Development: larger houses for less money, more choice of housing types, preservation of natural features, community recreation space, safe pedestrian ways and safer streets, and more conveniently located schools and shops.

Elected and Appointed Public Officials: Identified are modifications to the zoning regulations that can be authorized by the Planning Commission (bulk and use regulations); and regulations that can be modified by special permit, subject to the approval of the Board of Estimate (e.g., bonuses of additional floor space).

Public Agency Personnel: The actual provisions of the zoning regulations governing PUDs are included. There is a brief discussion of bonuses granted by special permit and a detailed outline of the preliminary and final application procedures, although the negotiation process is omitted. Finally, of interest to architects, engineers, and designers as well as planners are the recommended design principles and site planning alternatives possible under PUD.

Lawyers: Of general interest since no legal issues or case studies are included.

Landowners and Developers: In addition to the outline of the preliminary and final application submission procedures, discussed are some of the advantages for the developer and builder: less land used for streets, more efficient utility runs, better drainage, less grading and site preparation, more varied house types that can reach a wider market, more dwelling units and bigger houses, and the ability to include shops and stores.

Additional Notes

Numerous communities have produced manuals on PUD to facilitate local understanding of the process. Another well designed report incorporates contemporary design standards and PUD innovations into a county "Model" Planned Residential Development: **Erie County Planned Residential Development Report**. Erie Metropolitan Planning Department, 806 West Second Street, Erie, Pennsylvania 16507, (814) 456-6560. June 1975, 40 pp.

For a good discussion of the advantages offered by PUD to both communities and developers see *"PUD is Good for Everybody"* House and Home, September 1969. Reprints are also available from Stetson Press, 1717 Spring Garden Street, Philadelphia, Pa. 19130.

LEGAL ANALYSIS

7. Title and Source

AUTHOR: Aloï, Frank A.

TITLE: "Legal Problems and Planned Unit Development: Uniformity, Comprehensive Planning, Conditions, and the Floating Zone"

SOURCE: Real Estate Law Journal, Summer 1972
pp. 5-42
Warren, Gorham and Lamont, Inc.
210 South Street
Boston, Massachusetts 02111
(617) 423-2020

COST: \$10.50 single issue.

Contents

Defining the Concept

Threshold Questions

Euclidian Zoning: The Cumulative Ordinance

Uniformity of Regulations

Enabling Legislation - Developmental Concept Gap

Area Requirements

Problems in Implementation

The Comprehensive Plan

The Floating: General Consideration, The Conceptual Background, New York Cases, Pennsylvania Cases, New Jersey Cases, Unzoned Use Overlays, Floating Zone and the PUD: Prospects

Conditions

Summary

This well written and well organized article examines some of the threshold legal problems in the enactment of Planned Unit Development ordinances as well as some important problems in implementation - the floating zone technique and conditional zoning. These problems are re-examined both individually and as they relate to each other in the context of planned developments.

Considered here are such problems as compatibility of the mixed use concept with the Euclidian rationale embodied in the cumulative ordinance, compatibility of cluster provisions with uniformity of regulation within a district, and enabling legislation to permit town boards to enact Planned Unit Developments.

Also considered are three other problems in implementation that are essential to the concept of PUD: the comprehensive plan, the floating zone, and the conditional zoning devices. Comprehensive planning is required to insure that restricting is not found to be arbitrary. With regard to floating zones, case laws cited from New York, Pennsylvania, and New Jersey indicate the range of judicial attitudes toward this concept. In the matter of judicial zoning, only a fine line distinguishes the practices from contract zoning which is illegal. Cursory recommendations are offered for its application.

User Evaluation

General Public: This report is overwhelmingly legalistic.

Elected and Appointed Public Officials: This article may be useful as an overview on judicial reaction to legislative policy.

Public Agency Personnel: Many basic planning issues are considered in this report - the comprehensive plan, floating zone, conditional uses, etc. Planners and municipal attorneys charged with drafting PUD ordinances can examine these issues in the unique context of PUD.

Lawyers: Discussed in detail are cases from New York, Pennsylvania, and New Jersey. In addition, numerous other cases and case reviews are cited.

Landowners and Developers: The article may be of interest to developers' attorneys.

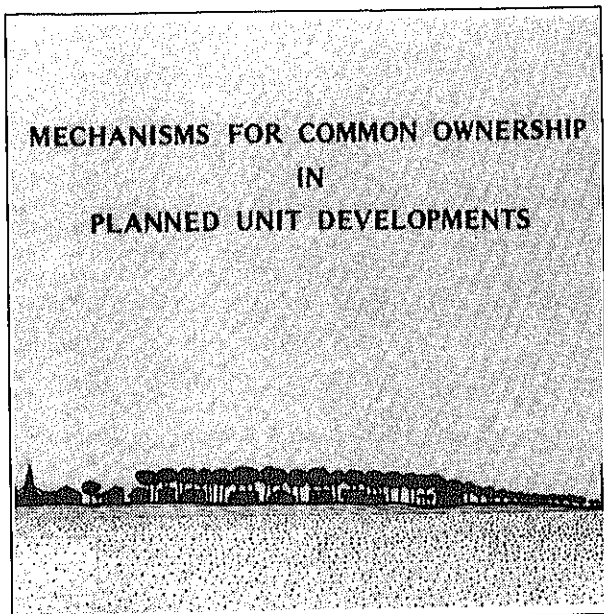
Additional Notes

For additional information on the legal aspects of PUDs, see Norman Williams, General References Section - Legal Aspects, entry number 5.

Also, Gerhardt, Paul, et. al. "Planned Unit Development and Floating Zones", *Real Property, Probate and Trust Journal* 7 (1) Spring 1972, pp. 61-67, which includes several case citations and, chapter on Legal Aspects in entry number 1, this section.

8. Title and Source

AUTHOR: Wolffe, Lenard L.
TITLE: Mechanisms for Common Ownership and Planned Unit Developments
SOURCE: Division of State and Regional Planning
n.d., 22 pp.
New Jersey Department of Community Affairs
329 West State Street, P.O. Box 2768
Trenton, New Jersey 08625
(609) 292-2905
COST: Free, but the supply is limited.



Contents

Developer's Decisions
Advantages and Disadvantages of the Homeowners Associations
Advantages and Disadvantages of the Condominium
Advantages and Disadvantages of the Funded Community Trust
Municipal Ownership
Eliminating Title Insurance Problems
Management
Handling Commercial and Industrial Users
Reserving Funds for Repair and Maintenance
Using Multiple Entities for Different Purposes
The Dispute Disposal Mechanisms
Federal Tax Note
Multiple Associations

Summary

This report provides an explanation of the alternative mechanisms for common ownership as they occur under various circumstances of Planned Unit Development. This report contains basic information on the establishment of three types of organizations: the homeowners association, the condominium regime, and the funded community trust. Municipal ownership is also discussed as a realistic alternative. Further, the report covers recent governmental decisions affecting the financial aspects of community management.

User Evaluation

General Public: This report may be useful to home owners association officers and interested members.

Elected and Appointed Public Officials: The intent of this report "is to stimulate discussion and to encourage foresight on the part of municipal officials (and developers) on the future of proposed development".

Public Agency Personnel: This report should be of general interest to planners and managers.

Lawyers: The report provides a basic explanation oriented toward the non-lawyer.

Landowners and Developers: A variety of considerations used by the developer to decide who is going to own and operate the open space and related facilities are briefly discussed.

Additional Notes

An extensive report on homes associations in general has been prepared by the ULI - The Urban Land Institute, *The Homes Association Handbook*, revised edition, Technical Bulletin No. 50, 1200 18th Street, N.W., Washington, D.C. 20036, (202) 331-8500, 1970, 422 pp.

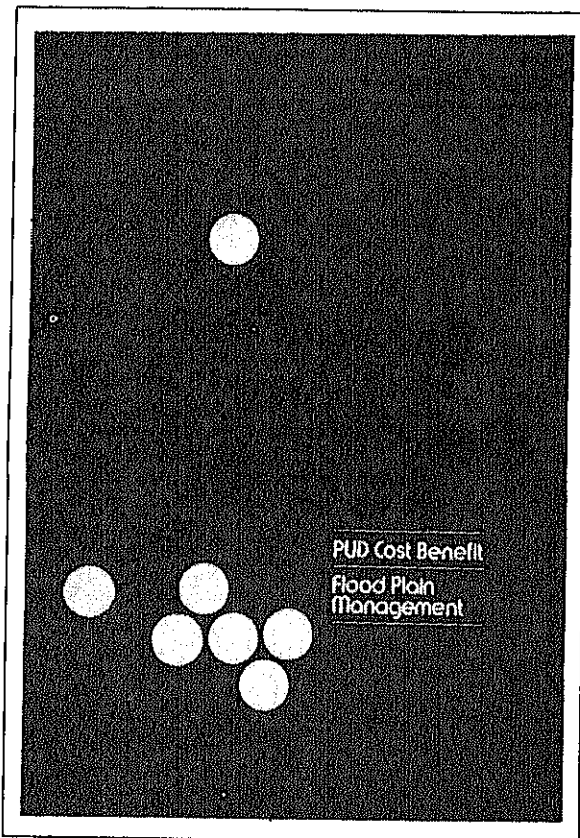
A report by the Federal Housing Administration may be useful in the preparation of materials for the general public and consumers: *Planned Unit Development with the Homes Association*, Land Planning Bulletin, No. 6, U.S. Department of Housing and Urban Development, January 1970, available for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, \$1. This report includes sections on the land development program, the development plan, legal absolutes, and creating the association and its facilities.

Non-profit incorporated homeowners associations are compared with unincorporated associations in an article by F. Scott Jackson, "Why You Should Incorporate a Homeowners Association", *Real Estate Law Journal*, Warren, Gorham and Lamont, Inc., 210 South Street, Boston, Massachusetts 02111, Vol. 3, No. 4, Spring 1975, pp. 311-329.

EVALUATIONS

9. Title and Source

AUTHOR: Crouch, R.L. and R.E. Weintraub
TITLE: "Cost/Benefit Analysis of a PUD"
SOURCE: Urban Land
ULI-The Urban Land Institute
1200 18th Street, N.W.
Washington, D.C. 20036
(202) 331-8500
COST: \$3.00 single copy



Contents

Project Specifications
Population
School Impact
School District Enrollments
School District Expenditures
Tax Revenues (and the net cost-benefit)
School Capacity
City Budget
Congestion
Waste Disposal
Growth

Summary

Presented here is a case study of a proposed PUD development for analysis of costs and benefits.

The actual PUD used in this case study did not obtain the required zoning. Nevertheless, the specifics of the case area and the characteristics and the proposed development are used to explain a methodology for estimating various impacts of planned residential development on an unnamed community.

The first task in this case study was to estimate the population. Instead of relying on frequently used rule-of-thumb estimates such as 3.0 or 3.5 for household density, household density was estimated from a selected block sample. The remainder of the report includes calculations of school-aged children projections, municipal costs and tax revenues, water consumption and wastewater generation, and vehicle emissions.

User Evaluation

General Public: This article is primarily technical, but may be useful to those public interest groups concerned with evaluating tax revenues and expenditures.

Elected and Appointed Public Officials: This article is written to assist governmental planning commissions (and agency staff) in appraising the economic impact of the PUD on their community.

Public Agency Personnel: Numerous tables provide graphic illustrations of how to measure impact.

Lawyers: Land use attorneys may find this article interesting from a quantitative point of view, but it does not discuss legal issues or cite cases.

Landowners and Developers: An analytically rigorous and persuasive cost-benefit methodology can add weight to the aesthetic and environmental evidence in support of proposed PUDs.

Additional Notes

See also the following article on a computerized cost impact assessment technique for measuring principal and developer costs of proposed projects: "Here's a New System for Figuring Project Feasibility", *House and Home*, 44(4), October 1973, pp. 110-117, McGraw Hill, Inc., New York.

Dennis E. Gale, "The Municipal Impact Evaluation System: Computer-Assisted Cost/Revenue Analysis of Urban Development, Planning Advisory Service Report No. 294, ASPO, Chicago, Illinois 1973.

10. Title and Source

AUTHOR: Division of State and Regional Planning
TITLE: Evaluating the Fiscal Impacts of Planned Unit Development
SOURCE: New Jersey Department of Community Affairs, n.d., 18 pp.
329 West State Street, P.O. Box 2768
Trenton, New Jersey 08625
(609) 292-6055
COST: Free, but the supply is limited.

Additional Notes

For another reference on fiscal impact, see Thomas Muller, Impact Zoning section, entry number 2, correlative notes.

Also, note that the Center for Urban Policy and Research, Rutgers University, New Brunswick, N.J., has a forthcoming book on fiscal impacts.

Contents

Cost-Revenue Methodology
Information Required by the Municipality and the Developer Cost-Revenue Analysis Formulas:
1. Educational Cost-Revenue Analysis
2. Non-Educational Cost-Revenue Analysis
3. Non-Residential Section (Commercial-Industrial) Cost-Revenue Analysis
PUD Cost-Revenue Analysis Example From Cumberland County Planning Board
Appendix: School Children per Dwelling Unit - By Type

Summary

This publication presents a fundamental approach to reviewing cost-revenue elements of development proposals. Included here are formulas for analyzing cost-revenue data provided by the developer and also comparative statistics derived from a survey prepared for the Division of State and Regional Planning. A complete methodology, including a check-list of required data, simplified formula format, and practical examples is provided. Since PUDs include a mix of uses, methodology includes formulas applicable to commercial and industrial uses as well as the various residential types usually found in a PUD.

User Evaluation

General Public: This report is technical in nature, but may provide interested citizens and groups with a basic understanding of the concepts.

Elected and Appointed Public Officials: Cost-revenue evaluations can be used to determine the physical impact of a large-scale development. This report points out, however, that such evaluations are to be viewed in terms of a municipality's long-range comprehensive planning efforts and are not to be construed as an attempt at exclusionary, fiscal zoning.

Public Agency Personnel: This methodology includes a checklist of required data and gives a step-by-step presentation of the cost-revenue analysis example.

Lawyers: This report is primarily technical and does not include legal analysis or case citations.

5. Landowners and Developers: This report gives a methodology that may be used by a municipality to review proposals.

4.

Incentive Zoning



Essentially, incentive zoning is a trade between the community and the developer. The community receives some public amenity that would otherwise be unavailable — such as increased open space, improved pedestrian and automobile circulation, provision for theaters or a desirable mix of housing costs and types. In return, the developer is granted a bonus in the form of permission to build at a higher density, more total floor area or more dwelling units. Without the bonus, the desired amenity would presumably not be economically feasible.

An incentive zoning system developed in the context of a planning process is explicit as to the objectives to be sought within an area and the means to be used in achieving them. Both objectives and means are officially and publicly adopted for consideration of individual cases. A number of such systems exist in high density commercial districts of large cities. San Francisco grants, among other things, a density increase of 20 percent over the usual limits if a building has direct access to a transit station. Included in the elaborate provisions of New York City's incentive system are bonuses to developers who add a legitimate theater as part of a new office development. Furthermore, some communities, such as Arlington County, Virginia and Bellingham, Massachusetts have encouraged development of lower income housing through incentive

zoning. Another incentive system, a type of timing or phased development zoning system, has been implemented in Ramapo, New York. For consideration of bonus provisions in planned unit developments (PUD), see section VII of this report.

The actual drafting of the bonus provisions is critical in incentive zoning. To facilitate effective implementation of the concept, the desired objectives must be clearly stated and based on careful study. They must follow a plan, costs and benefits to both parties must be balanced, and distinctions between mandatory, elective, and preferred improvements spelled out.

The calculation of an appropriate base floor area ratio (FAR) must be low enough to make the incentive provisions attractive to developers, but not so low as to unduly restrict development. Although market demand is a very significant factor to be considered, an incentive system can be implemented prior to extensive development pressures. San Francisco's system, for example, was developed in anticipation of a stronger market that would develop as planned transportation linkages came into effect.

There has been considerable experimentation with the technique and some difficulties have occurred: New York City now has a number of "dead" plazas, and the desired urban form in San Francisco has been thrown off because of intense development at the edge of the district rather than at the center.

GENERAL REFERENCES

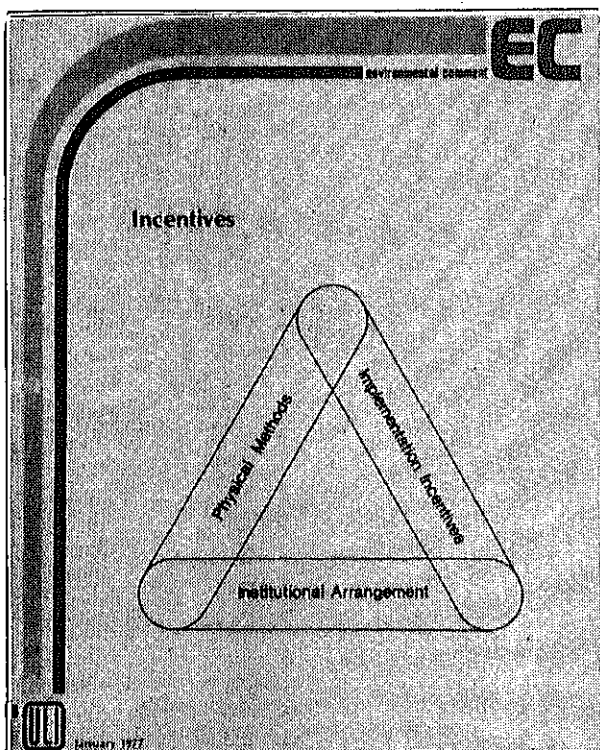
1. Title and Source

AUTHORS: See Below

TITLES: Seven separate, but related, articles
See Summary

SOURCE: Environmental Comment,
January 1977, p. 23
Urban Land Institute
1200 18th Street, N.W.
Washington, D.C. 20036

COST: \$3.00



Summary

1. The Search for Incentives: Any Progress?, William Reilly and John Noble, pp. 3-4. The first article in this series sets the tone for "Incentives" in land use controls as an effective means of obtaining variety and spontaneity which, in turn, yields its share of quality. The article doesn't answer any questions but concisely sets the stage for considering the incentive strategy as a viable planning option.

2. Zoning Incentives: Do They Give Us What We Really Want?, Bernard Seigar, pp. 4-5. The second article proposed that NO zoning is the answer to innovative quality land use controls. Mr. Seigar believes that the private market place, rather than the political forum, result in the fairest and most socially oriented decisions. He uses Houston as the supportive example for his laissez-faire governance.

3. A Context for Choosing Implementation Incentives for Environmental Quality Management, Blair Bower, Charles Ehler and Allen Kneese, pp. 5-10. Article number three is technical and deals with the specific problems of using incentive techniques for environmental pollution control. Although the reading is slow and the jargon and technical terms heavy, this piece is thorough in its presentation of the three basic components of any incentive system: i.e., institutional arrangements, implementation incentives, and physical methods. This is not for the layman.

4. Improving the Environment Through Price Incentives, Maury Seldin, pp. 10-13. This theoretical article introduces and discusses the ideas of environmental and economic capacity and demands, how financially based incentives can be used as "non-regulatory strategies" in community land use goals. These concepts are briefly, but well discussed and some of the inherent problems of this approach are touched upon.

5. Impact Zoning: Incentive Land Use Management, Roger Wells, pp. 13-16. This article provides a short comprehensive summary of how one approach to Impact Zoning works. The concept, typical products and actual process involved in implementing this incentive type of land use system is explained and diagramed. The major differences between conventional zoning and this impact assessment method are also described and include four critical variations.

6. Mixed Use: Economic Incentives to Enliven Downtowns, Robert Witherspoon, pp. 16-19. This article discusses the application of various types of mixed use zoning in urban areas as a successful way to integrate land uses, provide greater economic incentives to the private sector, and as a way to enliven downtown and assist in achieving other public sector goals. Three different types of experimentation in half a dozen cities is discussed. Two basic incentives: Density Bonuses and Administrative Relief are presented as the prime ingredients in a successful incentive ordinance.

7. Comprehensive Design Zones: Using Zoning to Protect the Environment, Isadore Parker, pp. 20-23. The final article in this group discusses Prince George County's experience with a special form of negotiated zoning using density and intensity bonuses as a way to achieve better design. This article also describes the three-stage process with graphic examples and discusses the major caveat of innovative zoning: "too much" in administrative review.

User Evaluation

General Public: The first, second and fourth articles should be of general interest on the concepts related to different types of incentive zoning.

Elected and Appointed Officials: The fifth and seventh provide more implementation and policy detail, plus conceptual bases which should be useful to this group.

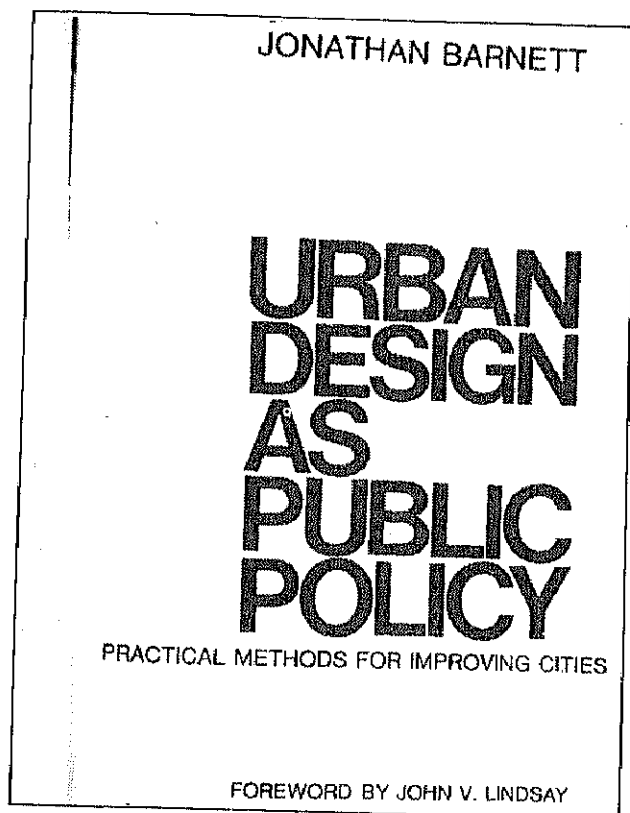
Public Agency Personnel: The third, fifth, sixth and seventh will be of most direct interest and use to these individuals.

Lawyers: There is very little discussion of the legal issues in any of these articles.

Landowners and Developers: Although the needs of the private sector are presented as a basis for incentive zoning, all the articles are addressed to the public interests.

2. Title and Source

AUTHOR: Barnett, Jonathan
TITLE: *Urban Design As Public Policy: Practical Methods for Improving Cities*
SOURCE: Architectural Record, McGraw-Hill Publication, 1974, 200 pp.
1221 Avenue of the Americas
New York, New York 10020
(212) 997-3442
COST: \$15.00



Contents

City Design As a Real-Life Problem
Private Enterprise and Public Benefit
Designing Cities Without Designing Buildings
Preserving Landmarks and Ties to the Past
Neighborhood Planning and Community Participation
Helping Downtown Compete With the Suburbs
Transportation, the Urban Armature
Design Review and Environmental Quality
Urban Design: A New Profession
Appendix
A list of work done in the Urban Design Group, the Office of Downtown Brooklyn Development, the Office of Lower Manhattan Development, the Office of Midtown Planning and Development.

Summary

Of all the reports written about New York's incentive zoning experiences, this book is perhaps the most interesting. It is a well organized, attractively illustrated, and lively discussion of

attempts to institutionalize urban design as a function of city government.

The chapter on designing cities without designing buildings discusses how the special zoning districts evolved from planned unit development and zoning incentives as well as urban renewal controls. Described in detail are the objectives and use of four special districts: Greenwich Street, Lincoln Square, Fifth Avenue, and Lower Manhattan Land-Fill.

Revealed here are several of the experiences that provide insight into the development of these special districts. In order to produce an answer to an immediate need (in this case the objective was to establish a legitimate theater), traditional approaches that follow detailed data collection were not undertaken. Rather an assumption was expediently made that negotiations with an individual developer were a sufficient model for an entire district. Similarly, instead of a drawn out survey, people in the theater world, hotel and restaurant businesses were involved in the initial design of the regulations.

The remainder of the book cites other examples of the partnership between design planning, politics and public participation in other areas such as downtown Brooklyn, Westside Highway Project, and East Fremont Neighborhood.

Finally, a justification is made for urban designers to design cities not just buildings. Urban design as a new profession is discussed in terms of civil service regulations and educational training.

User Evaluation

General Public: This book stimulates interest in the use of urban design and gives numerous accounts of public participation and activities.

Elected and Appointed Public Officials: Numerous activities and invaluable support, particularly on the part of the mayor, are mentioned throughout the many experiences described in this book.

Public Agency Personnel: In addition to providing technical details on the provisions of the special districts, the background information provides a realistic context. The numerous illustrations should be especially useful to architects, engineers, and designers as well as planners.

Lawyers: Although design oriented, attorneys may be interested in the legal mechanisms used to institutionalize decentralized planning.

Landowners and Developers: Individual development proposals are discussed throughout the report.

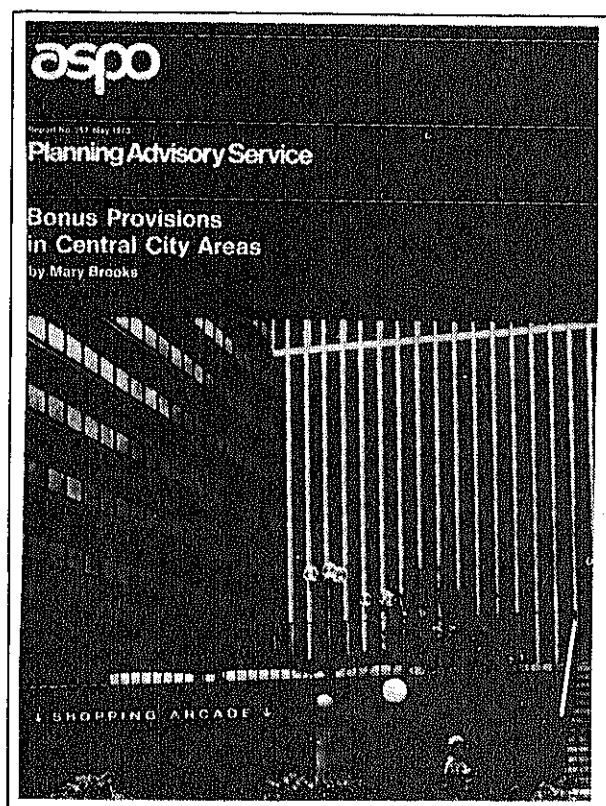
3. Title and Source

AUTHOR: Brooks, Mary

TITLE: Bonus Provisions in Central City Areas

SOURCE: Planning Advisory Service Report No. 257, May 1970, 52 pp.
American Society of Planning Officials
1313 East Sixtieth Street
Chicago, Illinois 60637
(312) 947-2115

COST: \$5.00; Subscribers \$3.00



Contents

Legal Issues

Elements of Bonus Provisions

Purposes

Amenities

Bonus

Administration

Comments on the Use of Bonus Provisions

Examples of Bonus Provisions

Boston, Massachusetts

Chicago, Illinois

Cincinnati, Ohio

Honolulu, Hawaii

Milwaukee, Wisconsin

Minneapolis, Minnesota

New York, New York

Philadelphia, Pennsylvania

Puerto Rico (proposed)

San Francisco, California

Seattle, Washington

Summary

This report is an introductory source of information on bonus incentive programs in central city areas. It encourages serious consideration of their potential for influencing central city developments measured by their ability to affect development that does occur, not in terms of stimulating construction.

Four important considerations or steps necessary in drafting any bonus system are identified and explained:

1. Establishing the purpose of the bonus system.

2. Selecting the amenities desired in the area.

3. Determining the bonuses to be granted.

4. Deciding on the administrative mechanism that will be used to control the system.

In a simple organized form, the typical purposes of bonus provisions are categorized, three major types of amenities distinguished, ways of calculate bonuses illustrated, and the advantages and disadvantages of as-of-right provisions considered.

Part II is a compilation of sample bonus provisions (listed here are amenities, districts, and bonuses) in Boston, Chicago, Cincinnati, Honolulu, Minneapolis, Milwaukee, New York City, Philadelphia, San Francisco, Seattle, and Puerto Rico (proposed).

User Evaluation

General Public: This report provides basic information on bonus provisions, but does not cover public involvement or background experiences.

Elected and Appointed Public Officials: Limitations on the potential use of bonuses are explored from two angles: side effects and failure to apply the widespread use of the bonus provision rationale.

Public Agency Personnel: This report provides a reference tool for planners drafting incentive zoning ordinance provisions. Calculating the size of the bonus, a particularly difficult step in drafting the provisions, is simply explained and well illustrated. Sections on the administration and use of bonus provisions are brief but provide general information for planners and managers.

Lawyers: The section on legal issues is brief but should provide some general background on legal issues for municipal and other land use attorneys.

Landowners and Developers: The relationships of smaller and larger developers to increased municipal discretion are briefly explored.

ADMINISTRATIVE EXAMPLES

User Evaluation

4. Title and Source

AUTHOR: Hart, Richard E.
TITLE: "Downtown Incentive Zoning—Plan for Anchorage, Alaska"
SOURCE: Greater Anchorage Area Bureau of Planning Department, n.d., 17 pp.
3500 East Tudor Road
Anchorage, Alaska 99507
(907) 274-2525
COST: Available on loan only.

Contents

The Basis of Need for New Incentive Zoning
The Incentive Zoning Plan
Features of the Incentive System
Economic Rationale
Appendix: Amenity Option Standards

Summary

This paper is a case study of a two-year effort to develop incentive zoning within the Anchorage CBD. Written in refreshingly simple language, this report is particularly useful for communities of comparable size (178,000).

The development of the Anchorage incentive zoning concept was a specific outgrowth of ten objectives listed in the Central Business Plan for Anchorage, adopted in 1973. A paramount issue was to promote a people-oriented CBD, meaning, *a fostering of an environment that would be interesting to people on foot, that would promote interaction between people, and that would remove or reduce pedestrian competition with the automobile.*

The focal point of the new incentive zoning plan was the complete revision of existing zoning district classifications. The new program consists of a three-zone system that establishes base heights (3, 5, and 9 stories) to which all development can construct by right. In addition, certain minimal design standards are required for all new development projects. Anything beyond these base heights must incorporate amenity improvements based upon a bonus point option system. There are also provisions for the development of amenities and alternative bonus point uses on public property and pre-existing nonconforming structures. The planned unit development process may be substituted for incentive zoning system, if there exists an unusual site problem or complex design.

The appendix describes design amenity option standards incorporated in the plan for: arcades, bike racks, canopies, galleries, hotels, housing, malls, natural areas, parking, plazas, restrooms, roof uses, seating, shops, sidewalks, street trees, and theaters.

General Public: Numerous citizen groups and businessmen were involved in developing the goals and objectives of the downtown business district as well as in developing the specifics of the new plan.

Elected and Appointed Public Officials: Identified are the goals and objectives established by the Planning Commission, in conjunction with staff planners, citizen groups, and businessmen, for the central business plan that formed a basis for the incentive zoning plan.

Public Agency Personnel: The importance of a detailed economic impact analysis as part of the plan is discussed. It is pointed out that, "without a sound economic framework, any incentive zoning provision stands little chance for success". Planners, architects, engineers, and public workers may find useful the amenity option standards incorporated in the plan.

Lawyers: Legal issues and analysis are omitted from this report.

Landowners and Developers: A benefit of the system is said to be that the architect, builder, client, planner, and user of the space are brought in at the initial design stage. However, this report does not provide details on how this process, the negotiation process, or site plan review process actually occur.

Additional Notes

This paper was submitted for presentation at the 57th Annual Conference, "Planning 75: Innovation and Action", the American Institute of Planners, San Antonio, Texas.

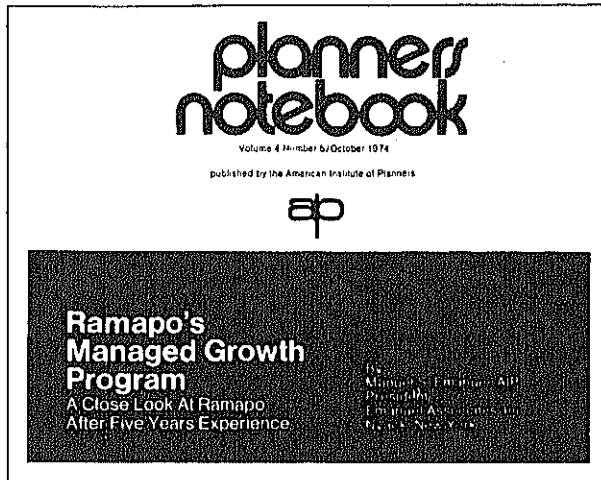
5. Title and Source

AUTHOR: Emmanuel, Manuel S.

TITLE: Ramapo's Managed Growth Program: A Close Look at Ramapo After Five Years Experience

SOURCE: *Planners Notebook*, Vol. 4, No. 5, October 1974, 8 pp.
American Institute of Planners
1776 Massachusetts Avenue, N.W.
Washington, D.C. 20036
(202) 872-0611

COST: \$2.00



Contents

The Master Plan
Capital Budget
Managed Growth
The Development Point System
Sewers
Drainage
Improved Park and Recreation Facility
Improved Roads
Fire House
Easement Acquisition
Overview of What Has Happened

Summary

Ramapo, New York's time (phased) incentive program is one of the most comprehensive managed growth programs in the country. This article traces the evolution of the plan and growth management ordinance from 1964, its connection to the capital budgeting process, and to a special easement acquisition ordinance.

Along with the master plan adopted with the amendments of 1966 and a comprehensive revised zoning ordinance was a preliminary list of capital improvements and a master plan for six months. After adoption of an official map, detailed facility studies of drainage, sewers, and recreation were conducted that led to the adoption of a capital plan. The managed growth program consisting of additional amendments to the zoning ordinance was used to implement controlled development. The amendments created the timing device necessary for growth management and the development point

system upon which development permits are granted. A Development Easement Acquisition Law was passed to ameliorate hardships and developers outside improved areas are able to improve their properties to proceed to development.

In addition to describing these basic planning components, statistics are given on development after adoption, 1969 to 1974, (illustrated by the number of special permits, variances granted and denied).

Problems in the program are reported to be due to changing circumstances, emergency needs, rising construction costs and project delays.

User Evaluation

General Public: Although this report may be useful as an overview of the incentive system, there is no discussion of public involvement in implementing the master plan or the point system.

Elected and Appointed Public Officials: Cited throughout this report are various activities and policies undertaken by the Ramapo Town Board and the Planning Board.

Public Agency Personnel: Although much has been written about Ramapo from a lawyer's point of view in other reports because of several law suits, this well-organized case study is primarily written for planners and municipal officials by the consultant to the town to explain the basic planning framework and the experiences that Ramapo has had to-date with the program. Public works personnel and engineers may be particularly interested in the development of the standards and criteria for each element of the point system, e.g., sewer facilities, etc.

Lawyers: Mentioned here is the landmark decision (*Rubin v. McAlevey*, 54 Misc.2d 338, aff'd 29 A.D. 2d 874) that declared the stop gap interim development ordinance constitutional and a valid protection of the planning process and orderly growth of the community. For a more legally oriented analysis of phased zoning, however, see Steven Urbanczk, this section, entry number 9.

Landowners and Developers: This article explains how the system works on a day-to-day basis, and how a developer accumulates points.

Additional Notes

Another brief, but concise article was prepared by one of the draftsman of the point system for fellow municipal administrators: John McAlevey, "Ramapo/Point System," *Public Management*, Vol. 56, No. 5, May 1974, pp. 18-19.

This article points out several critical ordinance design decisions:

There can be only one psychologically right time for selling the concept to the community;

The entire program should be laid out initially when all of the attention of the community is focused on the problem and its proper solution;

community is focused on the problem and its proper solution;

The system devised was as objective as possible and contained little of the subjective;

A necessary prerequisite was the investment of considerable money by the municipality in engineering studies and analyses;

Key elements that enable the program to withstand constitutional attack were the capital program and tax system;

"Success must be dedicated to a total program, not an overnight enactment of a legal panacea".

6. Title and Source

AUTHOR: Barrett, David
TITLE: Incentive Zoning for Boston
SOURCE: Boston Redevelopment Authority, July 1973, 115 pp.
One City Hall Square
Boston, Massachusetts 02201
(617) 722-4300
COST: Available on loan only.

Contents

Incentive Zoning Explained
The Zoning Base: Floor Area Ratio (FAR)
Intensity of Development
Ordinances in New York and San Francisco
Legal and Administrative Prerequisites
Existing Zoning Controls in Boston
The Potential Impact of Incentive Zoning for Boston
Questions to be Answered
Next Steps for Tasks and Participants
Appendix D: Calculating Bonus: Amenity Relationships.

Summary

This exhaustive study examines the use of incentive zoning and explores its potential applicability in Boston, apparently to expand the bonus provisions for off-street parking and abutting open space reported by Mary Brooks (this section, entry number 2).

The first section of this well-written report considers the nature and procedures of incentive zoning and its implementation in San Francisco and New York. Discussion on the use of incentive zoning in New York and San Francisco provides an extremely interesting analysis of approaches to the design of an ordinance in terms of "narrow" v. "broad" objectives; "case" v. "district" design context; "automatic" v. "discretionary" operations; "cash" v. "kind" contributions; and "mandatory" v. "optional" bonus features.

It is pointed out that while these ordinances fall short of accomplishing their full objectives, it has been demonstrated that (1) the concept is functional, (2) there have been notable individual successes, (3) there are no allegations that the ordinances in effect have had any restricting impact on development, and (4) there is growing interest and experimentation with the technique nationwide.

Although recognizing that incentive zoning can be applied to achieve a wide variety of objectives, the remainder of this report examines the potential role of incentive zoning in relationship to high intensity office development in downtown Boston.

User Evaluation

General Public: Although this report contains basic information on incentive zoning, it is not oriented to the general public.

Elected and Appointed Public Officials: The experiences of New York and San Francisco are used to analyze a considerable number of policy issues

that are prerequisites to determining the potential utility of incentive zoning. Also of interest is a discussion on the unanticipated results of incentive zoning in San Francisco and New York.

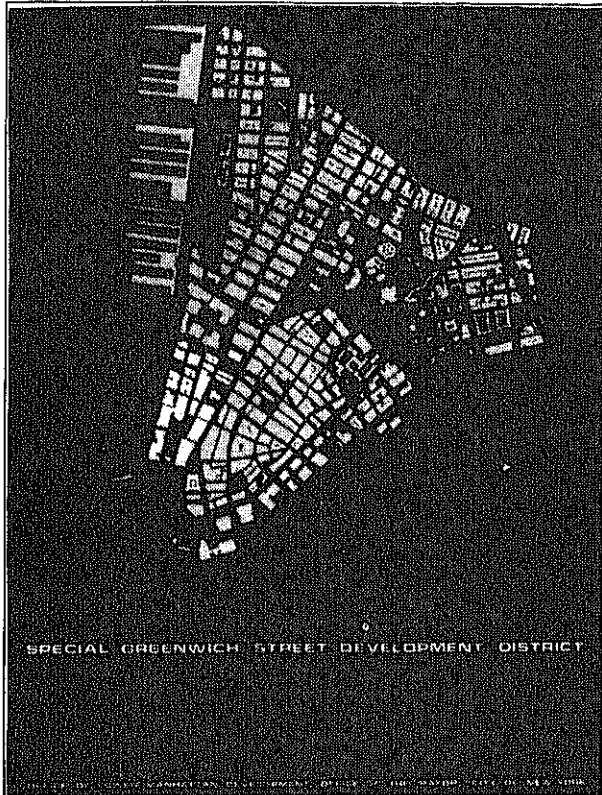
Public Agency Personnel: Although written primarily in context of Boston, planners and lawyers involved in drafting ordinance provisions will find the structure of analysis and the issues discussed applicable to other municipalities. Technical details on calculating the bonus, the most difficult step in incentive provisions, is covered in Appendix D.

Lawyers: Legality is identified as one of five prerequisites for successful introduction and functioning of an incentive zoning ordinance. An examination of the situation in Boston may have little applicability to other municipalities outside of Massachusetts. For a more in-depth examination, see David Benson, this section, entry number 10.

Landowners and Developers: The degree of development pressure and its relationship to an incentive ordinance is one of the issues periodically discussed throughout this report. Identified are several guidelines that can be used to maximize developer participation with incentive zoning.

7. Title and Source

AUTHOR: West, John Pettit, III
TITLE: Special Greenwich Street Development
SOURCE: District
Mayor's Office of Development, 1971,
55 pp.
Two Lafayette Street
New York City, New York 10007
(212) 566-3501
COST: Free



Contents

The Greenwich Street Area Defined
The Goals of the District
Elements of the Plan
How the District Works
An Example
Appendix A: District Plan
Appendix B: Description of Improvements by Block
Appendix C: Elected Pedestrian Circulation Improvements

Summary

This official document is a comprehensive neighborhood plan that provides for the development of Greenwich Street in such a way as to improve pedestrian circulation, facilitate access to the subway, increase shopping opportunities, provide additional open space, and preserve the historical character of the area. Greenwich Street is currently perceived as a model for other special zoning districts. The elements of the district are described in sufficient detail so that design and review, individual approval of the incentive bonuses and public hearings are not required.

This report is well organized and well illustrated. Described are the goals of the district: pedestrian circulation, subway access, shopping opportunities, urban spaces, street use, and simplicity of administration. The elements of the district plan have been grouped into four categories:

1. Fundamental requirements;
2. Elective pedestrian circulation improvements for a floor area allowance;
3. Mandatory pedestrian circulation improvements for a floor area allowance; and
4. Lot improvement for a floor area bonus.

Explained are the special district regulations that encourage and control development in the district: fundamental requirements, adjusted basic maximum floor area ratio, bonus floor area, and the use of bonus floor area to increase the permitted tower coverage. Furthermore, minimal administrative procedures are briefly discussed and an actual site used to illustrate the effect of the district on a project. Finally, cited is the text of Section 86-00, The Special Greenwich Street Development District.

User Evaluation

General Public: This report serves as a general information piece on this district, but contains no discussion of public involvement.

Elected and Appointed Public Officials: The goals identified in this report can serve as references to those municipalities concerned with incentives for improving pedestrian and traffic circulation. Various responsibilities of the City Planning Commission and Board of Estimate are cited in the actual ordinance text.

Public Agency Personnel: Explained in graphic detail are the technical elements of the district plan and the regulations upon which the amendment, the appendix lists the mandatory pedestrian circulation improvements, mandatory lot improvements, and preferred lot improvements or the designated block improvements for the Special Greenwich Street Development District.

Lawyers: This report serves as a general information piece on this district, but contains no specific discussion of legal issues or case citations.

Landowners and Developers: An example is used to explain the actual workings of the district on a specific project.

Additional Notes

Another report on Greenwich Street, co-authored by West, is similar, but not identical:

Markus, Marvin and John Pettit West, III, "Urban Design Through Zoning: The Special Greenwich Street Development District," *Planners Notebook*, Vol. 2, No. 5, October 1972, 8 pp. American Institute of Planners, 1776 Massachusetts Avenue, N.W., Washington, D.C. 20036, (202) 872-0611.

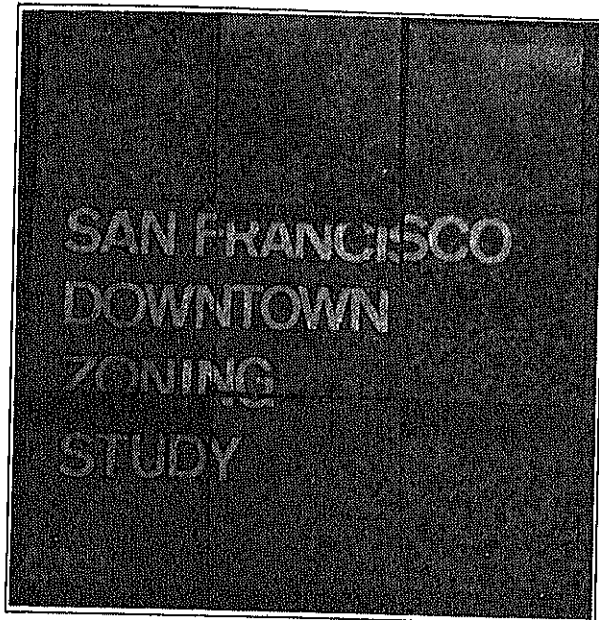
The case study contains a brief history of the district, omits the zoning code and most of the illustrations, and identifies the anonymous example as the Bankers Trust Building.

Other special districts have been implemented in New York City, for more information on these districts, contact:

The Mayor's Office of Development
Two Lafayette Street
New York City, New York 10007
(212) 566-3501

8. Title and Source

AUTHOR: Department of City Planning
TITLE: San Francisco Downtown Zoning Study
C-3 and Adjacent Districts, Final Report
SOURCE: San Francisco Department of City
Planning, December 1966, 48 pp.
100 Larkin Street
San Francisco, California 94102
(415) 558-4656
COST: Available on loan only.



Contents

Downtown Objectives, Planning and Zoning Study
Guiding Principles
Defining Downtown
Patterns of Accessibility
Growth Trends
Three Dimensional Form
Downtown Zoning Districts
The Floor Area Ratio Control
A Workable Bonus System
Establishing the Purposes
Selecting Bonus Features
Scaling the Quantity of Each Bonus
Maximum Development with Bonuses Used
Case Studies in Application of the Bonus System
Special Areas
Residential-Commercial Combining Districts
Special Use Districts
Areas for Special Protection
Off-Street Parking and Loading
Coordination with Downtown Public Programs
Urban Renewal
Transportation
Civic Center
Downtown University Campus
Northern Waterfront Planning Study
Housing and Social Needs
Historical, Architectural, and Aesthetic Landmarks
Other City Codes
Summary of Proposed Zoning Provisions

Summary

This report concludes an extensive study for downtown San Francisco. Described in technical detail are the various study elements that ended in new incentive ordinance provisions for amendment of the Planning Code.

Discussion of the zoning study itself defines the downtown and establishes four downtown zoning districts. Analysis of the bulk of buildings and the intensity of development led to the conclusion that the floor area bonuses should be extensively used to encourage certain building features producing public benefits. Details on the bonus system are explained in terms of establishing the purposes and selecting bonus features. Case studies illustrate application of the bonus system to a number of downtown buildings. A number of areas found to require special zoning treatment are identified, provisions for off-street parking and loading are discussed, and coordination with various public downtown programs examined. Finally, tables or maps are used to illustrate a concise summary of the proposed downtown zoning districts.

User Evaluation

General Public: This report contains numerous illustrations and photographs to explain this incentive zoning system.

Elected and Appointed Public Officials: Mentioned in this report are questions raised in meetings of the City Planning Commission and Board of Supervisors that formed a basis for the kinds of investigation undertaken in this zoning study.

Public Agency Personnel: In addition to technical details on the bonus system, this report describes the various study elements that led to the proposed ordinance. Of particular interest to managers is the discussion of coordinating the zoning plan with downtown public programs.

Lawyers: Although useful as a general planning reference, this report is not specifically oriented to land-use attorneys and contains no legal analysis or case citations.

Landowners and Developers: Eleven examples demonstrate the range of building features for which bonuses are given and the maximum floor area ratios that apply in certain situations.

LEGAL ANALYSIS

9. Title and Source

AUTHOR: Urbanczk, Steven L.
TITLE: "Phased Zoning: Regulation of Tempo and Sequence of Land Development"
SOURCE: *Stanford Law Review*, Vol. 26, No. 3, February 1974, pp. 585-617, Stanford University, Stanford, California 94305
For back issues: Fred B. Rothman and Company, 57 Leuning Street, South Hackensack, New Jersey 07606
COST: \$2.75

Contents

Statutory Validity of Phased Zoning
Purpose of Regulation
Means of Regulation
Constitutional Validity of Phased Zoning
Purpose of Regulation
Means of Regulation

Equal protection, due process, the judicial approach, inappropriateness of judicial approach, inapplicability of judicial approach.

Summary

This article asserts that "the direct, flexible tempo and sequence controls needed to regulate suburban growth are now available through 'phased zoning.'" Discussed in this article are the complex legal issues involved in phased zoning with reference to the "Golden" (Ramapo, New York) decision.

The validity of phased zoning is analyzed in light of local government's statutory authority to zone, and the constitutional validity of phased zoning. Further discussion is on the relationship between phased zoning and doctrines regarding a local government's responsibility to accommodate regional and state housing needs.

Voluminously footnoted, several conclusions are reached: phased zoning methods seem clearly within local government's delegated power; the interests of landowners are not unconstitutionally infringed by tempo and sequence controls that directly advance permissible goals and which impose only temporary restraint on land use; and finally, judicial intervention on behalf of outside interests is both inappropriate and inapplicable because of its potentially detrimental effect on important community and regional interests and because of the significant differences between low-density zoning cases and tempo and sequence controls.

User Evaluation

General Public: Although legalistic in style, the analysis of judicial intervention (discussed here

in terms of racial and economic discrimination and right to travel) may be of general interest.

Elected and Appointed Public Officials: The differences between phased zoning and large lot zoning and the relationship between phased zoning and regional housing allocations are analyzed.

Public Agency Personnel: In addition to providing an overview on various aspects of phased zoning, the notes contain technical details on the Ramapo, New York amendment in 1969, and an overview of techniques used to control the development of outlying areas such as "holding zones", state and local tax policies, subdivision controls, and capital improvements programming.

Lawyers: This article is of obvious use to land use attorneys, analyzing the Golden case in detail, and citing numerous other relevant cases.

Landowners and Developers: The protection of landowners interests is analyzed in terms of equal protection and due process. Further discussed is the issue of how long "temporary" is.

Additional Notes

For a more in-depth discussion of planning issues, see Manuel Emmanuel's report, this section, entry number 5.

10. Title and Source

AUTHOR: Benson, David J.
TITLE: "Bonus or Incentive Zoning—Legal Implications"
SOURCE: *Syracuse Law Review*, Vol. 21, No. 3,
Spring 1970, pp. 895-906.
Syracuse University
Syracuse, New York 13210
COST: \$1.25

Contents

Incentive Zoning—How It Works
The San Francisco Plan
The New York City Plan
Constitutional Considerations
Unconstitutional Taking
Rational Relationship to the Police
Power
Other Constitutional Objections
Enabling Legislation
Why Use Incentive Zoning
Who Will Challenge Incentive
Zoning

Summary

The use of incentive zoning in New York City and San Francisco is cited briefly and the potential vulnerability of such zoning to court challenges discussed.

It is concluded that as long as the by-right intensity of use has not been diminished from its previous zoning status, constitutional objections do not seriously jeopardize incentive zoning regulations as they now exist. Furthermore, it is evident that while there is no explicit statutory authority for implementing an incentive zoning plan, the general statutory grants are sufficiently broad to allow a court to approve incentive zoning regulations.

Finally, it is pointed out that "the key to the success of incentive zoning would seem to be in the negotiating room, and not in the court room". Consequently, as long as planners design bonuses to be sufficiently rewarding financially, large and small developers will find the system attractive.

User Evaluation

General Public: The article identifies various public amenities and conveniences for which the concept of incentive zoning is used.

Elected and Appointed Public Officials: Incentive zoning is suggested as an "alternative" to the cumbersome variance procedures of conventional zoning.

Public Agency Personnel: This report points out several implications of incentive zoning that should be considered by municipalities drafting incentive provisions, but it contains no technical details.

Lawyers: Several constitutional objections are pointed out in this report and a few cases discussed.

Landowners and Developers: Briefly discussed are the advantages of incentive zoning for large and small developers.

EVALUATIONS

11. Title and Source

AUTHOR: Parker, Thomas C., and Richard C. Ward

TITLE: "Bonuses by Site Plan; Measuring the Benefits"

SOURCE: Arlington County Planning and Zoning Section, n.d., 37 pp.
21 - 14th Street
Arlington, Virginia 22201
(703) 558-2291

or
Team Four, Inc.
14 North Newstead
St. Louis, Missouri 63108
(314) 533-2200

COST: \$2.00

Contents

Background

The Zoning Tool

Site Plan Review Procedures and Criteria

The Rosslyn Master Plan and Current Development
Circulation System; Building Site; Parking;
Pedestrian Circulation System; Minimum County
Expenditures; and Absence of Public Condemna-
tion

Evaluating the Urban Infrastructures

Traffic Circulation, Plazas and Open Space, Skyway
System, Pedestrian Environment, Landscaping,
Parking Systems, Utilities, Lighting, Public Transit
Facilities, Signs

The Value of Developer Contributions

Assessing the Value of Contributions
Corresponding Public Investment
The Net Contribution

Conclusions

Maps and Tables

The Rosslyn Plan

Evaluation Relationships

Summary of Total Contributions

Developer of Contribution Analyses

Summary of Total Public Investment

Appendices

Administrative Regulations

Site Plan Development Procedure, Summary

Synopsis: The Overall Fiscal Importance of Rosslyn

Summary

The primary object of this paper is to analyze and evaluate the success of Arlington County, Virginia over a 15-year development period at inducing direct private contributions to the development of the public infrastructure in the Rosslyn area of the County.

First, background material describes types of bonus-amenity zoning techniques used, the review procedures and criteria followed, the basis for the master plan, and the current status of development in Rosslyn.

The first evaluation describes ten elements of the urban infrastructure in Rosslyn (traffic circulation, plazas, open space, skyway system, pedestrian environment, landscaping, parking systems, utilities, lighting, public transit facilities, and signs), their stages of development, and relative success. The reasons for the results and recommendations for actions are not discussed here. Among the conclusions reached are:

The site plan review system has been perhaps most successful in showing the construction of a sophisticated and complex automobile circulation system at a minimum direct public investment.

Perhaps the most seriously deficient environment amenity is landscaping.

The second evaluation estimates the net value of developer contributions. Each of 12 contributions was assessed in terms of contribution per square foot of floor area. Correspondingly, public investment was calculated in terms of the original development of the plan, review of on-going projects, and capital costs associated with the projects. The estimated contribution yields a substantial net benefit to the county.

Footnotes and appendices provide added information in the form of ordinance provisions, site plan approval procedure, condition checklist, and a synopsis of the overall physical impact of development in Rosslyn in terms of capital and operating costs.

User Evaluation

General Public: This report should be of interest to those individuals and groups concerned about the effects of implementing incentive zoning.

Elected and Appointed Public Officials: This paper explains in detail public and private expenditures derived from the long-term application of bonus zoning and site plan review procedures chosen in lieu of standard urban renewal procedures to provide the needed public infrastructure at a minimum direct public cost.

Public Agency Personnel: The evaluation, methodology and results are the critical parts of this article for planners and managers. Both non-physical and cost-benefit evaluations were conducted. The functions of the zoning administrator, office of planning and transportation, utilities, inspection services and fire departments in this regularized inter-departmental staff review of site plan are listed, although the negotiation process is omitted.

Lawyers: Although of a general interest, this report contains no discussion of legal issues or case citations.

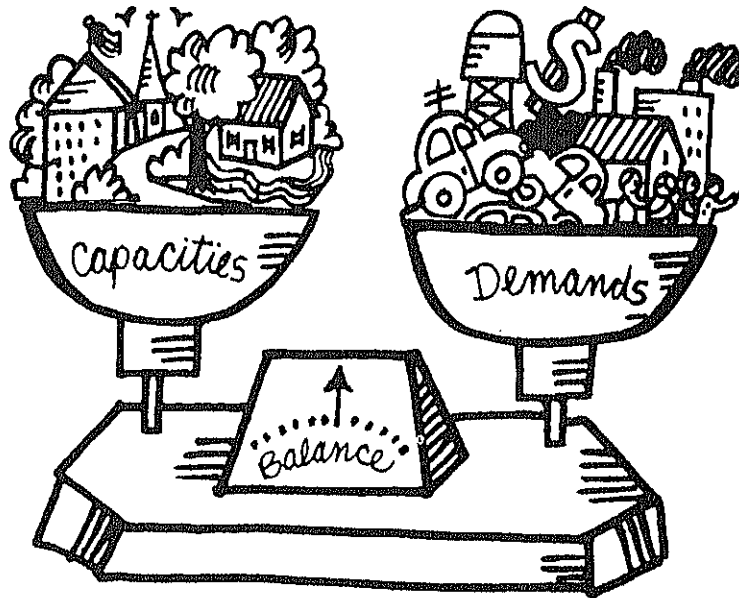
Landowners and Developers: Developer contributions are analyzed in terms of the type of development (i.e., office building, hotel, and apartment buildings), the amount of contribution, the contribution as a percentage of total, and the contribution per square foot of floor area.

Additional Notes

This paper was submitted for presentation at the 57th Annual Conference, "Planning 75: Innovation and Action", American Institute of Planners, San Antonio, Texas

5.

Impact Zoning



Impact zoning is still in its infancy. It is variously called performance zoning, development-impact zoning, environmental characteristics zoning, land capability zoning, and so on. At times it appears to be a whole new approach to zoning (with its own vocabulary and techniques), and at other times it simply seems like traditional zoning as it should be done.

Impact zoning is easiest to define by its antecedents. It is an extension of two procedures fairly common to local government practice: the use of performance standards and the use of environmental impact review requirements. The first performance standards that were initiated in the early '50's, enabled local governments to more accurately regulate their industrial zones. During the past two decades, this basic concept has been extended to apply to factors not associated with industry and to the protection of environmentally sensitive areas.

The environmental impact review requirements often follow the same model as a federal and state requirements. These local ordinances are designed to provide consistent review of large development projects, and are often a prerequisite either for a zoning change or as part of the review procedure for developments over a specific size.

Impact zoning has attempted to integrate and extend these two types of procedures to provide more

sophisticated information on which to make zoning decisions.

The system has four primary characteristics: It relates land use demands to land use capacities.

It assesses the consequences of any proposed change in land use.

It emphasizes an on-going process rather than just fixed products.

It provides a legislative and administrative framework for land use management and uses minimal land use controls.

The process is similar in some respects to the development of traditional land use controls. The critical difference is the emphasis on capacity versus demand, inherent compatibility, impact assessment, incentive options and management.

The ultimate intent of performance or impact zoning is to replace the traditional use specifications with a broad set of objective standards. Project evaluation would be based on specific performance related to the character of development. These standards may be simple — such as requirement that total tax revenues from the development offset the cost of servicing that development, or involve complex formulae — such as peak hour stormwater and extension runoff performance calculations. All such measurements are set out in the ordinance so that a developer can and will use them.

GENERAL REFERENCES

1. Title and Source

AUTHOR: Schaenman, Philip S.
TITLE: Using an Impact Measurement System to Evaluate Land Development
SOURCE: UI Report, 1976, 106 pp.
The Urban Institute
Publications Office
2100 M Street, N.W.
Washington, D.C. 20037
(202) 223-1950
COST: \$3.95

Contents

Introduction
Terms and Emphasis
Background
The Need for a Systematic Approach Toward Measurement Impacts
Assumptions and Evaluation Approaches
Assumptions About Development Review
The Proposed Method -- An Overview
Relation to Other Approaches -- Ad Hoc or "Organic" Evaluation
Preplanned Tools Used in "Organic Evaluation, and Successive Screening Approach
Suggested Measures
Choosing a Set of Measures
Illustrative Checklist of Measures
Clientele Groups
The Practical State of the Art
Using An Impact Measurement System
Different Users
Types of Uses and How They Fit in the Decision Process
Data Analysis
Constraints on Usage
Implementation: Getting Started
Assessing the Approach: Local Officials Speak

Summary

This is the final report in a series of five reports on impact analysis done by the Urban Institute. The initial reports dealt intensively with fiscal, environmental, social, and private economic impacts. These reports are listed in the correlative notes to this entry.

In this final report in the series, Philip Schaenman pulls together what UI learned "in the course of trying to implement an impact measurement system in local governments". Drawing on the experiences obtained from working directly with several local governments as well as the relevant findings in the preceding reports, Schaenman gives a comprehensive picture of the need for impact measurement, the practical state of the art, and the factors both facilitating and impeding the systematic use of impact analysis in land use decision-making.

This report does not go into the details of impact assessment, as do the other reports, but it is a good beginning document. It gives the basic discussion of how, when, and what happens if local governments attempt to use impact measurement systems. It also provides an overview of the other

volumes and assesses their contents generally and in relationship to zoning decisions specifically. It is particularly useful for its discussion and examples of local governments that have used impact measurements.

User Evaluation

General Public: For anyone interested in impact measurement, this is the volume with which to begin.

Elected and Appointed Public Officials: Such officials will be particularly interested in this volume since it addresses their concerns about the use of impact measurement for land use decisions, and gives some testimonies from local officials who have used the procedure.

Public Agency Personnel: This, along with the other volumes, provides a comprehensive look at impact measurement. This volume will be of interest because it sorts out how the impact measurement system can be integrated into a basic planning program, from evaluating comprehensive plans to doing project review. It also gives the basic methods of data analysis that are necessary for using impact measurement.

Lawyers: There is a short discussion of the legal constraints on the use of impact measurement systems that will be of interest to land use attorneys.

Landowners and Developers: This volume will provide landowners and developers with the basics of impact measurements and their use. However, this group will probably be more interested in the volume dealing with private economic impacts.

Additional Notes

The companion volumes to this report may be obtained from UI at the initial address listed. The volumes in the series are:

Muller, Thomas **Fiscal Impacts of Land Development** (\$3.95)

Muller, Thomas, **Economic Impacts of Land Development: Employment, Housing and Property Values** (\$3.95)

Keyes, Dale L., **Land Development and the Natural Environment: Estimating Impacts** (\$3.95)

Christensen, Kathleen, **Social Impacts of Land Development: An Initial Approach for Estimating Impacts of Neighborhood Usages and Perceptions** (\$3.95)

A number of communities have incorporated comprehensive impact reviews into their zoning procedures -- some use the procedures only for rezonings, but others include them for all developments over a particular size. One example, Cocoa Beach, Florida, is included in this digest. (This section, entry number 5.)

Several other communities of interest are:

Planning Department, City of Clearwater, P.O. Box 4748, Clearwater, Florida 33518, (813) 442-6131,

Department of Planning, City of Troy, 500 West Big Beaver Road, Troy, Michigan 48084, (313) 689-4900

Sparta Township Planning Board, 65 Main Street, Sparta, New Jersey 07871, (201) 729-6174

Duxbury Planning Board, Town Hall, Tremont Street, Duxbury, Massachusetts 02332, (617) 934-6586

2 Title and Source

AUTHOR: Thurow, Charles, William Toner & Duncan Erley

TITLE: Performance Controls for Sensitive Lands: A Practical Guide For Local Administrators

SOURCE: Reports 307-308, July 1975, 155 pp.
American Society of Planning Officials
1313 East Sixtieth Street
Chicago, Illinois 60637
(312) 947-2115

COST: \$12.00; Subscribers \$10.00

Contents

Importance of Environmentally Sensitive Areas
Streams and Creeks
Streams, Creeks, and the Public Purpose
Local Regulations of Streams and Creeks
Data Needs and Technical Assistance
Aquifers
Groundwater Hydrology and the Public Purpose
Developing a Local Regulatory Program
Data Needs and Technical Assistance
Wetlands
Wetland Ecology and the Public Purpose
Evaluation of Local Wetland Regulations
Developing and Strengthening Local Wetland Programs
Data Needs and Technical Assistance
Woodlands
Forest Ecology and the Public Purpose
The Local Regulation of Woodlands
Data Needs and Technical Assistance
Hillsides
Hillsides and the Public Purpose
Current Practices in Hillside Regulation
Developing Hillside-Protection Programs
Data Needs and Technical Assistance
Selected List of Communities With Regulations
Recommended Readings
Environmental Performance Standards
The Nature and Character of Environmental Performance Standards
Developing Environmental Performance Standards
Controlling Runoff
Controlling Erosion
Erosion and Runoff Ordinances
Sensitive
Excerpts of Ordinances
Sources of Technical Assistance

Summary

This book is a comprehensive study on the use of performance standards for environmental protection. It covers the five land types listed in the above contents - giving a basic discussion of the essential land features that make them important public resources to protect. The text evaluates local regulatory programs and practices in terms of their effectiveness in protecting the public interest identified in the first section of each chapter. It then makes recommendations for strengthening these regulatory programs so that they can better accomplish their intended goals.

The document is strongest on the initiation and design of environmental performance controls. It gives information that will be useful in both introducing the general notion of performance

regulation for these sensitive areas and in determining how specific districts should be defined and mapped. It does not go into detail about monitoring and enforcement procedures for these regulations.

There is a technical appendix that goes into a more theoretical discussion of performance standards and the difficulties of designing numerical values for land functions.

Finally, the book includes excerpts from ordinances, lists communities that are using these ordinances, and agencies that can provide technical assistance in designing ordinances.

User Evaluation

General Public: This book will be of interest to citizens concerned with protecting natural areas in their community. It gives the basic background information they need for public involvement in these land areas, and provides description of what a wide variety of communities are currently doing.

Elected and Appointed Public Officials: Councilmen and commissioners will be interested in this study since it does provide information on the procedures and difficulties other communities have had in using performance regulations. It gives them an easy guide to what other governments similar to their own have done.

Public Agency Personnel: Planners, municipal attorneys, and zoning officials will find the book useful as a guide to developing similar ordinances for their communities. The model ordinance provides much of the necessary legal language necessary in drafting local regulations. It also cautions against some provisions that can cause legal or administrative difficulties later on.

Lawyers: Land use attorneys will be particularly interested in the sections of the book that explain the technical justification of the use of police powers to protect environmentally sensitive areas.

Landowners and Developers: The book discusses the methods used by local governments to ensure equitable treatment of the individuals owning these lands. It also suggests how trade-offs can be made to ensure that development is not prohibited from lands that can be developed.

Additional Notes

The Town of Tuxedo, New York adopted a density impact zoning system in 1975 that is based on soil erodibility and slope length factors and San Mateo County, California has a conservation district that covers most of their land and which pulls together all land resources into a single performance regulation.

Town of Tuxedo, Route 17, Tuxedo, New York 10987.

San Mateo Planning Commission, 590 Hamilton Street, Redwood City, California 94603.

See also: Pease, James R. *Comments on Performance Standards* prepared for the Institute on Land Use Planning, Bureau of Environmental Research and Service, Eugene, Oregon, August 1974, which is an excellent practical source on performance standards; and

Woolfe, Donald A. *"Resource Management District in Use in San Mateo County"*, Practicing Planner, June 1977.

3. Title and Source

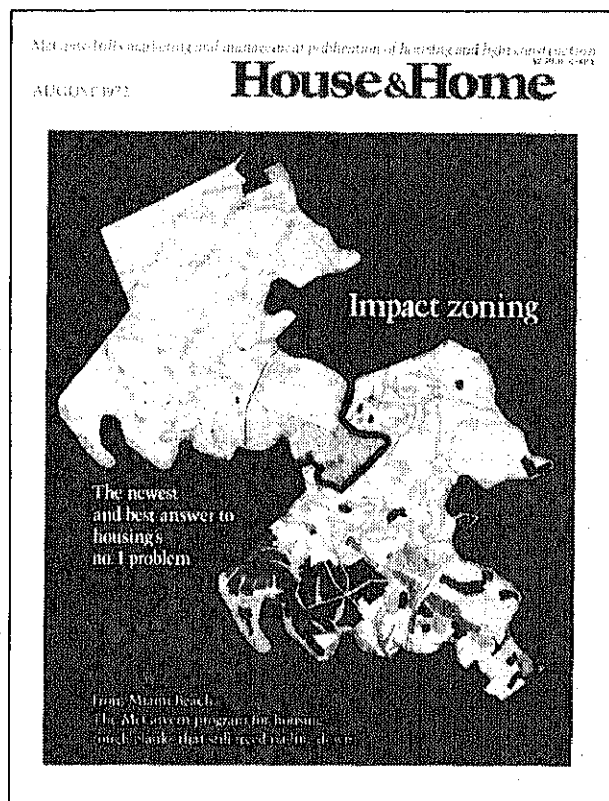
AUTHOR: Stimson, Jr. Michael

TITLE: "If There's a Way Out of the Impasse Among Housing, the Community and the Environmentalists, the Way is Impact Zoning"

SOURCE: House and Home 42 (2), August 1972, pp. 58-67
1221 Avenue of the Americas
21st Floor

New York, New York 10020
(212) 997-3905, or
Stetson Press
1717 Spring Garden Street
Philadelphia, Pa. 19103

COST: Reprints: \$2.00



Contents

The Present Condition

A Comparison: Traditional vs. Impact Zoning

How It Works

What It Costs

Basic Elements:

Growth rate - the developer's marketing goal vs. how fast the town can reasonably grow

Infrastructure - a project's need for essential services vs. the town's ability to supply them

Municipal cash flow - the cost of servicing a new project vs. the tax revenue it will generate

Natural determinants - making sure a new project will work with, not against its environment

The Legal Angle - impact zoning is on safer ground than traditional zoning

Case Study:

Maps as management tools

Negotiating a hypothetical project

Summary

This article introduces to the housing industry the concept of impact zoning, which was developed by Rahenkamp Sachs Wells and Associates of Philadelphia, to the housing industry. By analyzing the problems created by conventional zoning and discussing the approach of impact zoning, this article illustrates the benefits of Impact Zoning. As pointed out: "More specifically, it (Impact Zoning) analyzes and correlates the effects of four key parameters:

1. The growth rate of the community as it relates to the present population, the available land and growth rate of the surrounding region.

2. The community's infrastructure - sewers, water, roads, etc.

3. The economic picture - what the new project will cost the community in service vs. what it will return in the form of tax revenues.

4. Natural determinants, or the project's impact on the environment.

One of the most impressive parts of this article is the series of color maps that show the various factors considered for Bern Township, Pennsylvania: existing land use, slopes, hydrological soil types, vegetation, computer grid, coverage plan, flood-plains, soil types, geology, land compatibility chart, proposed land use plan, sewer and water plans, road plan, community services.

A brief, legal assessment of impact zoning is provided by Lenard Wolffe, a noted land use attorney. Finally, a projected case study hypothetically explains how impact zoning functions.

User Evaluation

General Public: The piece is an excellent introduction to the concept of impact zoning, providing a good overview of the technique in everyday language.

Elected and Appointed Public Officials: The article clearly enumerates the essential qualities of impact zoning so officials can easily see if the concepts would be appropriate for their community.

Public Agency Personnel: For planning staff or consultants the comparison with traditional zoning should be a useful guide to the significant differences. The illustrations in the article show the mapping for two of the four impact zoning parameters, and they will give planners and others some notion of the computerized overlay maps used in the system.

Lawyers: The legal review although written in 1972 is still valid and refreshingly succinct.

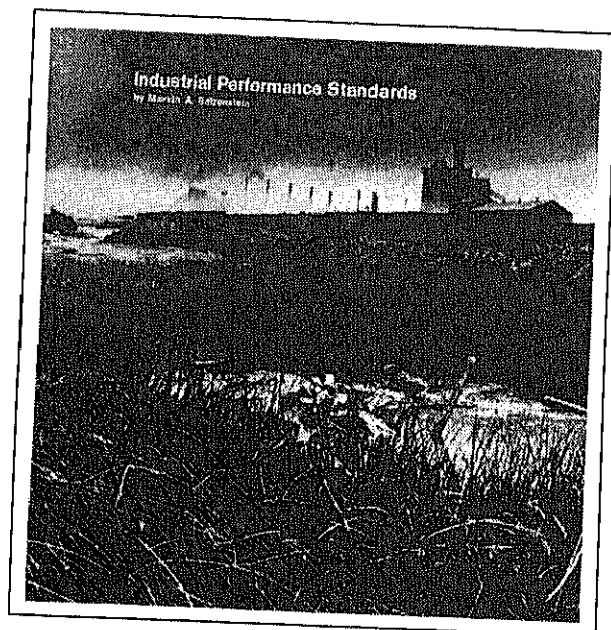
Landowners and Developers: A significant portion of the article is devoted to explaining the effect of impact zoning on private developers.

Additional Notes

A response to the House and Home article, Frank Beal and Frank So, "Editorial - the New Improved 1973 Zoning Model is Now at Your Dealer's Showroom." Planning, November 1972, pp. 260-261 criticizes the August, 1972 House and Home article on impact zoning for overselling the concept and giving insufficient documentation. This brief article raises several questions and points to other problems. What state or federal agency would local communities ask to determine their fair share of the regional population increase? How is a major facility amortized? We have land capability analysis, but is it zoning? Furthermore, there is concern with the cost of preparing an impact zoning ordinance as well as the emphasis on private negotiations between a developer and community officials.

4. Title and Source

AUTHOR: Salzenstein, Marvin A.
TITLE: Industrial Performance Standards
SOURCE: Planning Advisory Service Report
No. 272, 1971, 63 pp.
1313 East Sixtieth Street
Chicago, Illinois 60637
(312) 947-2115
COST: Subscribers: \$5.00



Contents

Survey of Local Government Ordinances
Recent Federal Activity
Designing Performance Standards
Writing the Ordinance
Performance Standards for Air Pollution
Toxic Matter
Noise
Vibration
Fire and Explosive Hazards
Glare
Performance Standards for Other Effects
A Glossary of Performance Standards Terminology
Proposed Industrial Performance Standards,
Auburn, New York

Summary

Although this report is six years old, it remains the principal document concerning industrial performance standards, and most impact ordinances still incorporate many of the standards discussed in this document. It was published prior to the implementation of many of the national regulations concerning air and water pollution; consequently, it does not include any discussion of the fit between local regulations and these national standards.

The document is designed to be a guide to local governments for preparing industrial performance standard ordinances or zoning districts. Its aim is to present best current practice rather than to discuss unusual or novel approaches to industrial zoning.

The report includes a basic discussion of the concepts involved in performance zoning, a detailed discussion of the process of writing or designing an ordinance, an evaluation of the most common measures used for those industrial nuisances listed in the contents, and samples of good ordinance language.

The report also includes the text of the Auburn, New York ordinance. Auburn is a city of about 35,000 in mid-New York and has a broad mix of industrial uses including an M-1 (light industrial) and an M-2 (general industrial).

User Evaluation

General Public: With its specific interest in ordinance design, this report will not be of interest to most people.

Elected and Appointed Public Officials: Except for the initial sections which discuss the basic background to industrial performance standards, this report will not be of interest to most public officials. However, the sections on "How Much Control?" and the general survey of how local governments administer their industrial performance standards will be of interest.

Public Agency Personnel: While there has been some change in the basic knowledge of environmental problems of industry, this is still a basic text from which to start. Many of the sections, such as those concerning administration and the elimination of nonconforming uses as well as those sections on noise, glare, and vibration have general applicability to performance or impact zoning.

Lawyers: The report will be useful to attorneys who are involved in the writing of ordinances. It does not, however, include any discussion of the legal ramifications of industrial performance zoning.

Landowners and Developers: This report is not addressed to this group, but any of them dealing with local industrial regulations may be interested.

Additional Notes

Since the report does not cover local experience with industrial performance standards in detail, it will be useful to contact some of the communities with experience:

Lake County Regional Planning Commission
18 North County Street
Room A-803
Waukegan, Illinois 60085
(312) 889-6350

Cook County Department of Planning
118 North Clark Street
Chicago, Illinois 60602
(312) 443-7635

Sarasota County Planning Department
2086 Main Street
Sarasota, Florida 33577
(815) 958-9711

See also: **Performance Standards: A Technique for Controlling Land Use**, Corvallis OR: Oregon State University Extension Service 1974 (Special Report 24). This report explains the concept of performance standards and cites examples relating to environmental quality, traffic, building intensity, aesthetics and social and economic impacts.

ADMINISTRATIVE EXAMPLES

5. Title and Source

AUTHOR: Adley Associates, Inc.

TITLE: Impact Zoning Procedures: An Element of a Growth Management Program for Cocoa Beach, Florida

SOURCE: City of Cocoa Beach, 1975, 55 pp.

City Hall, P. O. Box 280

Cocoa Beach, Florida 32931

(305) 783-4911

or

Florida Department of Community Affairs

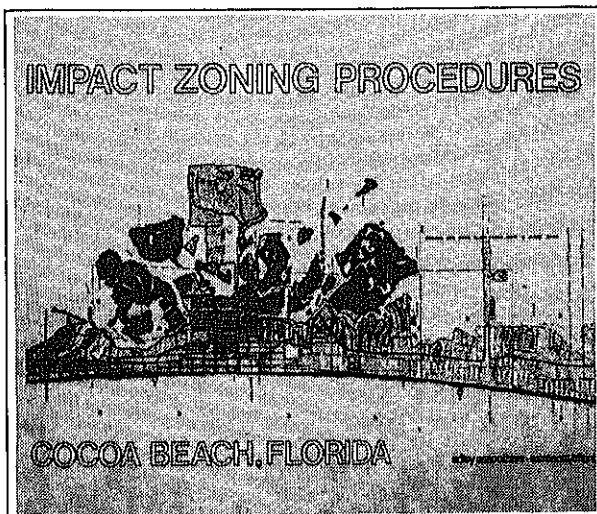
Division of Technical Assistance

2571 Executive Center Circle, East

Tallahassee, Florida

(904) 488-2356

COST: Available on loan.



Contents

Goals and Objectives

Impact Evaluation Factors

Impact Review and Evaluation Procedures

Summary Impact Evaluation Worksheet

Impact Evaluation Ratings

Point Assignment

Worksheets

Summary

This well-written report presents a methodology and develops procedures that are designed to enable Cocoa Beach to evaluate the probable impact of a rezoning request that would result in an increase in density or intensity of residential land use. The report is simply the procedural basis by which the impact zoning technique may be subsequently implemented in a revised zoning regulation. It is in itself not a regulation, but rather a technique that can

be injected into a city's current regulations to make them more effective in evaluating applications for increases in residential density.

The approach suggested by this report is simple and straightforward, and does not involve heavy staff or financial commitments.

The factors included in the evaluation are:

1. Existing land use — proposed use compared to adjacent uses.
2. Zoning districts — proposed use compared to surrounding zones.
3. Existing residential densities — compatibility with existing development types.
4. Impact areas and vacant land — committed development on other parcels.
5. Land use plan — the city's long range objectives.
6. Major transportation routes.
7. Sanitary sewers.
8. Fire protection.
9. Traffic.
10. Public recreation.
11. Environmental factors — preservation and conservation areas, and
12. Soils and flooding.

User Evaluation

General Public: This is a technical report prepared for the City of Cocoa Beach and probably would not be of general interest.

Elected and Appointed Public Officials: The report, particularly the first half, provides a clear idea of how a basic impact assessment procedure might be linked to a zoning ordinance. As such, it will be of interest to public officials who are interested in this process.

Public Agency Personnel: This document is particularly useful for planning departments that are interested in setting up an evaluation procedure for considering zoning changes or density changes. The sample weighting system and evaluation forms can be used as models for designing such a system.

Lawyers: The report does not cover legal considerations.

Landowners and Developers: The report only covers considerations made by the public body and does not talk about advantages or disadvantages to individual applicants.

Additional Notes

These procedures have been adopted by Cocoa Beach, and are now a formal part of their zoning ordinance. The community found that they had to change some of the criteria and weighting to make it more accurately reflect their goals, but the basic framework was not modified.

6. Title and Source

AUTHOR: Bucks County Planning Commission
TITLE: Performance Zoning
SOURCE: Bucks County Planning Commission,
ND, 1973, 60 pp.
Box 12, Cross Keys Office Center
4259 Swamp Road
Doylestown, Pennsylvania 18901
(215) 348-2911
COST: \$5.00

Contents

Land Use Intensity
Density
Open Space Ratio
Impervious Surface Ratio
Site Variables
Shape — irregular and regular sites
Size — small and large sites
Design Variables
Facilities
New Standards and Administration
Model Ordinance
A Technical Appendix

Summary

Bucks County Planning Commission has been working on the design of performance standards for local zoning ordinances for the past five years. This report was the initial piece they published to introduce the concept to their local government units. While they have significantly refined their work since 1973, this report still remains the primary work on their performance system.

In designing this new style of ordinance, the Bucks County Planning Commission was responding to the inability of traditional ordinances to provide "sufficient housing for the future population while safeguarding the aesthetic, natural and historical qualities typical of Bucks County." Consequently they have established a performance zoning system for residential development based on three variables: density, open space ratio and impervious surface ratio. By the community setting standards for these three factors, the developer is given greater flexibility in site plan design in choice of housing types, and in provision of public services — especially recreation and transportation facilities.

The report gives examples of how the standards would vary depending on the character of the area: agricultural districts, conservation districts, suburban districts, urban districts, and urban core districts. The report also includes a model ordinance (with commentary) that illustrates how a local government would modify its existing land use regulations to include these performance standards.

User Evaluation

General Public: The document is designed as a general introduction to performance zoning; the basic concepts are well illustrated with maps and examples. However, the concepts are sufficiently complex so that unless the reader were reasonably familiar with zoning practice, he or she would find it

difficult to understand how the performance zoning works.

Elected and Appointed Public Officials: The public official will find this report a useful basic description of performance zoning. It does not, however, go into the types of details about administrative complexity, costs, or effects that would be of interest to these officials.

Public Agency Personnel: The professional staff of planning agencies, zoning departments, or building departments will find this a useful report — particularly because of its technical appendix on ordinance design. The model ordinance is excellent and the commentary provides useful guidance on how the model can be adapted to the particular characteristics of a community.

Lawyers: Again, the model ordinance language will be useful to lawyers interested in drawing up impact or performance standard ordinances.

Landowners and Developers: This report provides some ideas on how performance standards will allow for better site design and more efficient use of land.

Additional Notes

Since the publication of this report, the Bucks County Planning Commission has used their basic model to design ordinances for several townships in the county. Throughout this process, they have done considerable work on bolstering the use of performance standards for roads, parking treatment and environmental impacts. They have also developed standards that allow trade-offs between the size of buffer yards and the character of buffering materials. For further information contact:

Bucks County Planning Commission
Box 12, Cross Keys Office Center
4259 Swamp Road
Doylestown, Pennsylvania 18901
(215) 348-2911

Two of the townships that are using zoning ordinances based on this model and that are likely to soon have several court tests are:

Buckingham Township
4613 Old York Road
Box 413
Buckingham, Pennsylvania 18912
(215) 794-5834

Quakertown Area Planning Committee
15-35 North 2nd Street, Box 341
Quakertown, Pennsylvania 18951
(215) 536-5001

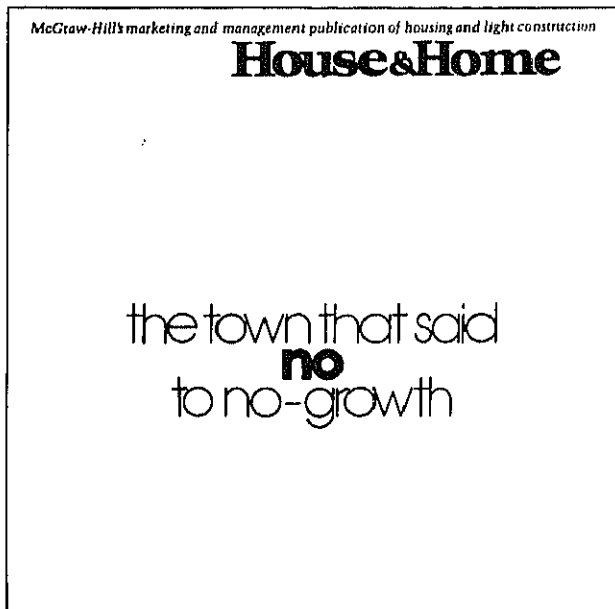
Also there are two communities outside of Pennsylvania that are now using some of the basic concepts developed there. They are:

Lake County Regional Planning Commission
County Building
Waukegan, Illinois 60085
(312) 689-6487

Kansas City Development Department
15th Floor
City Hall
Kansas City, Missouri 64106
(816) 274-1844

7. Title and Source

AUTHOR: Gerardi, Natalie
TITLE: "The Town That Said No to No-Growth"
SOURCE: *House and Home* 44 (6), December 1973,
pp. 62-69
1221 Avenue of the Americas
21st Floor
New York, New York 10020
(212) 997-3905
or
Stetson Press
1717 Spring Garden Street
Philadelphia, Pa. 19130
(215) 568-7545
COST: Single copy: \$3.00



Contents

The article presents a descriptive narrative of Duxbury, Massachusetts' adoption of impact zoning. It covers:

- Historical Background on Duxbury and Causes of Growth
- The Formation of a Land Use Study Committee
- Local Land Use Concerns
- Increasing Taxes from New Growth
- Loss of Open Space
- Increased Residential Density
- The Development of a New Zoning Ordinance or By-Law
- Description of Ordinance
- The Addition of a Bedroom Limitation to the Ordinance and Dropping of Public Housing from the Ordinance
- Support and Opposition to the Proposed Ordinance
- Predictions About the Effects of the By-Law

Summary

The process by which Duxbury, Massachusetts adopted impact zoning is described, including the conditions that prompted a search for an alternative

to conventional zoning, the type of research required, and the major issues debated by both supporters and opponents of the proposed impact zoning technique.

The major problems facing the town were soaring tax rates and shrinking open space. The town had tried to cope by increasing minimum lot sizes and purchasing conservation areas but finally turned to an outside planning consultant for an alternate approach to land use management. It took ten months for the planner to collect and analyze the data for a master plan, and to design an impact zoning code for the town.

The majority of the article relates the controversies and modifications to the originally proposed impact zoning code which occurred in order to win approval of the innovative zoning approach at the annual town meeting. Most significantly, allowable densities and the required mix of housing types were adjusted, but the vast majority of the proposed code was adopted.

One significant advantage of the article is that it was based on extensive investigation in Duxbury and includes many direct quotes from the people directly involved in adopting impact zoning. This approach not only produces a very realistic picture but also highlights the critical local personages involved, such as the town officials, their citizen land use committees, the planning consultant, the local newspaper, developers and realtors.

User Evaluation

General Public: For a report about a zoning ordinance, this article is surprisingly interesting. It gives a general feel for how an ordinance is initiated and adopted. Readers may identify with various roles depicted in the article.

Elected and Appointed Public Officials: The New England town meeting structure, and the fact that the community is small, may affect the pertinence of the article. However, it does indicate what the opposition and support might be for an impact zoning ordinance which is useful for all officials.

Public Agency Personnel: This article is of use to planners and other agency people considering introducing innovative ordinances to their community. By describing the process from the perception of the problem through the actual adoption of the ordinance, it provides insights into the do's and don'ts of introducing impact zoning to a local community.

Lawyers: While some of the legal issues are suggested in the article, it gives no details.

Landowners and Developers: A number of landowners and developers are interviewed in the article.

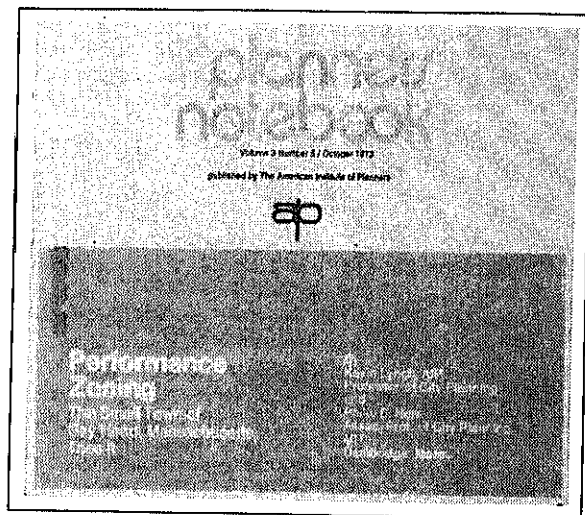
Additional Notes

For a fuller discussion of the impact zoning approach see *Managing Growth Through Impact Zoning* by John Rahenkamp, et al, McGraw Hill, (advance orders only at this time).

Also see: *Impact Zoning: An Introduction and Selected Bibliography* by Robert W. Ditmer, Council of Planning Libraries, Exchange Bibliography #974, 24 p., February 1976, P.O. Box 229, Monticello, Illinois (\$2.50). This short report contains a brief but well footnoted explanation of Impact Zoning and a selective but comprehensive bibliography.

8. Title and Source

AUTHOR: Lynch, Kevin and Philip Herr
TITLE: "Performance Zoning: The Small Town of Gay Head, Massachusetts Tries It"
SOURCE: *Planners Notebook*, 3 (5), October 1973, 4 pp.
American Institute of Planners
1776 Massachusetts Avenue
Washington, D.C. 20036
(202) 872-0611
COST: \$12.00



Contents

Description of Gay Head — Its Development and Rural Attitudes
The Gay Head By-Law
Comments on the Most Important Elements of the By-Law
Experience and Evaluation

Summary

This case study looks at the processes and procedures that led this rural town of 118 people (in the winter) to 1,000 (in the summer) to select a broad performance zoning and impact analysis approach rather than traditional zoning.

This non-technical report provides some perspectives of local attitudes as well as an analysis of the Gay Head By-law. This by-law, drafted by a Zoning Committee of local citizens as a result of nearby Duxbury's success with impact zoning, was passed almost unanimously at the town meeting.

Under Gay Head's by-law, the town is practically a single zone. Throughout the town, a few listed uses are automatically allowed, while any other use is permitted if it meets the listed performance standards. Any large development (over 10,000 square feet, or 3 lots) is subject to special review which covers eight performance conditions and sixteen points that must be accumulated by the developer.

The article concludes: "in more complicated localities, this approach to zoning would probably

have to be hybridized with some simplified form of districting. Densities and performance rules, for example, might be varied between districts." But the authors point out that the basic approach is useful. A recent computer simulation study of a suburban community shows that all of their conventional five-district by-law could be "replicated by a relatively short set of performance rules."

User Evaluation

General Public: The article is a short, clear explanation of the Gay Head zoning by-law and is of interest to anyone concerned about zoning in small communities. It is objective in that it gives a notion of both the limitations and strengths of this approach.

Elected and Appointed Public Officials: It will be primarily useful for this group as a general information source. Of particular interest should be the section that discusses the fit between the zoning by-law and the basic rural attitudes of the community.

Public Agency Personnel: The article gives a synopsis of the eight performance conditions drawn up by the community which can be a useful model for local planning staff and attorneys working with zoning. It does not, however, provide the complete text of the ordinance.

Lawyers: The legal issues involved in this style of ordinance are only handled in a cursory manner.

Landowners and Developers: The response of landowners and developers to the ordinance is not included in this article.

Additional Notes

The town of Gay Head has modified some of the original provisions and the ordinance varies on several points from both the Duxbury precursor (see #8 of this section) and Gay Head's original code proposals. Those interested should get a copy of the complete text from:

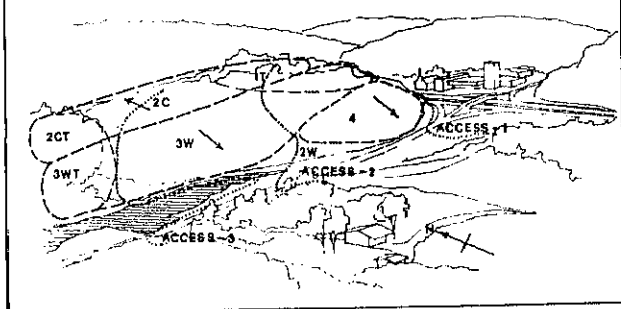
Gay Head Board of Selectman
Gay Head Town Hall
Gay Head, Massachusetts 02539
(617) 645-9115

Several other towns have been working on similar ordinances. Clinton, Massachusetts, an industrial town of 13,000 population, developed a two-district performance rule by-law in 1972, and Baltimore County, Maryland is designing one — vastly more complex (See this section, number 9).

9. Title and Source

AUTHOR: Kaminsky, Jacob
TITLE: Environmental Characteristics Planning: An Alternative Approach to Physical Planning
SOURCE: Regional Planning Council, 1972, 82 pp.
701 St. Paul Street
Baltimore, Maryland 21202
(301) 383-5864
COST: Free, but supply is limited

ENVIRONMENTAL CHARACTERISTICS PLANNING



Contents

Approach
Classification of Development Character
Development Intensity Types System
Development Intensity Types Graphic Illustrations
Economic Evaluation of the Development Intensity
Types System
Landscaped Area Classification
Micro-Environment
Preparation of a Plan
Appendices
Derivation of Maximum Floor Area Ratio Values
Relationships Among Site Development Standards
The Relationship Between Floor Area Ratio and
Residential Density
Standards For Building Height-Distance Relations
hips

Summary

This report proposes basic changes in our approach to zoning and to redefine the purpose of zoning districts so they more accurately reflect the public purpose of segregating uses. An environmental characteristic plan defines a series of districts representing specific development types based on:
intensity level — building density and activity rate (people density and auto trips)
landscape area — represents the man-made to natural surfaces ratio, establishing the degree to which a district is rural or urban, and
micro-environmental standards — standards for building height-distance relationships
As the author states:
"The concept of development type suggested

here differs basically from the conventional view. Development type usually refers to housing types (single homes, town house, garden apartment, high rise) and to use (industrial, commercial, residential). Here it refers to the character of the development. The environmental characteristic approach does not prescribe an arrangement of uses, as conventional plans do. Rather, it assigns an appropriate environmental characteristics type to each district... Diversified development, innovative combination and arrangement of uses and structures would be possible in each district as long as the character of the proposed development is in accordance with that specified for the district."

One interesting aspect of this study is an economic evaluation of the development intensity type system. The authors used the methods currently used by the real estate industry to determine if projects would be economically feasible under these proposed regulations. The entire economic study is in a separate report, **ECP-Financing Models, Development Types III-VII**, but the work is summarized in this volume.

User Evaluation

General Public: This report is aimed at a technical audience and will not be of interest to the general public except for those groups which may be doing an intensive study of zoning. It is, however, one of the few performance zoning studies that deals with urban situations.

Elected and Appointed Public Officials: Some sections of this report assume a fairly detailed knowledge of zoning and economics, but it is useful for elected and appointed officials since it is sensitive to the economic issues involved in zoning. It attempts to give some idea of how the various parts of the system will influence development markets in the community.

Public Agency Personnel: The report is designed for this audience and they will find it a particularly useful document. Not only does it go into details about the process of designing an environmental characteristics plan, but also gives suggestions about how it can be evaluated in terms of its effect on the building market in the community. Also, the technical appendices gives details on how to calculate some of the numerical figures and interrelationships among factors.

Lawyers: The report does not deal with the legal issues of the Environmental Characteristics System.

Landowners and Developers: Like the public officials, the landowners and developers will find this a useful report since it specifically addresses some economic issues of concern to them.

Additional Notes

See also:

Juneja, Narendra, Medford — Performance Requirements for the Maintenance of Social Values Represented by the Natural Environment of Medford Township, N.J., Center for Ecological Research in Planning and Design, Phila., Pa. 1974.

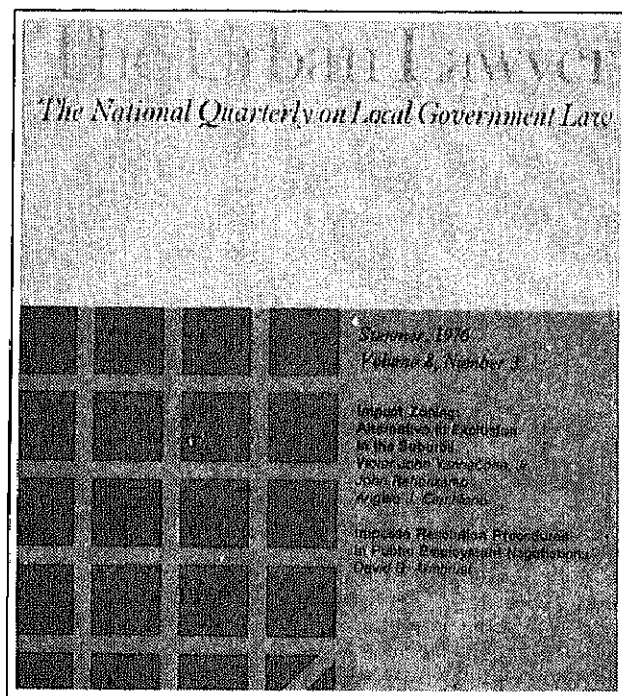
Godschalk, David R. and Norman Axler, Carrying Capacity Applications in Growth Management, Chapel Hill, N.C., July 1977.

Clark, John, The Sanibel Report: Formulation of a Comprehensive Plan Based on Natural Systems, Washington, D.C.: The Conservation Foundation, 1976.

LEGAL ANALYSIS

10. Title and Source

AUTHOR: Yannacone, Victor, Jr., John
Rahenkamp, and Angelo Cerchione
TITLE: "Impact Zoning: Alternative to
Exclusion in the Suburbs"
SOURCE: *Urban Lawyer* 8 (3), Summer 1976, pp.
417-473.
American Bar Association
1155 E. 60th Street
Chicago, Illinois 60637
(312) 947-4000
COST: \$6.00



Contents

Constitutional Limitations to Public Regulations —
The Taking Issue
Regulations that Protect the Public Health Safety and
General Welfare
Regulations that Protect Significant Natural and
Social Resources
Recovery of Property Vested with the Public Interest
Land Use Regulation and the Use of Sovereign
Powers
The Petaluma Plan
Timed-Sequential Growth: Ramapo
Impact Zoning
Evolution of an Impact Zoning Plan
The Capacity of Communities to Absorb Growth
Regional Housing Allocation

Summary

The major portion of this journal article reviews the basic legal issues involved in govern-

mental regulations of land use. It discusses the basic work done by Fred Bosselman, David Callies, and John Banta in their book *The Taking Issue* (1973) concerning the constitutional limitations to public regulation of private property. It also reviews the court decisions concerning the growth management plans of Petaluma, California, and Ramapo, New York. By using this background discussion, the authors show that impact zoning, is well within the standards by which the courts have been judging the legality of local land use regulations.

The final section of the article, "Impact Zoning," is the most useful part of the article. While it follows the basic outlines of the article in *House and Home* (see this section, entry number 4), it goes into more detail on the issue of regional housing allocations. It enumerates the steps through which a community must move to determine its "fair share" of regional housing needs. The article is co-authored by one of the principal designers of impact zoning as described in number 3 of this section. The article is somewhat promotional, due to the authorship, and speculative, due to the limited experience with the technique.

User Evaluation

General Public: Unless specifically interested in the legal issues involved in innovative zoning, a general reader would not be interested in this article.

Elected and Appointed Public Officials: This article does give a basic briefing on the legal issues of land use regulations generally and growth controls specifically. It would be useful to individuals wanting a brief article discussing these issues.

Public Agency Personnel: Staff of planning agencies and municipal attorneys will find this article useful as an introduction to the legal issues involved in impact zoning — particularly concerning regional housing allocations and growth management. It also provides a useful review of the basic court positions on the question of "taking without just compensation."

Lawyers: Most land use attorneys will probably find this article of interest. In addition to discussing how impact zoning meets court mandates regarding growth management, it also includes a discussion of the Florissant Fossil Beds National Monument case in Colorado and the *Sierra Club v. Morton* case in Florida which are often not found in the literature on land use.

Landowners and Developers: This article will be of little interest to landowners and developers unless they are specifically interested in the legal issues of impact zoning.

Additional Notes

One technique developed for use with impact zoning is a housing model, which is used to evaluate a community's fair share of regional growth and thus as an aid to growth management. See Pennsylvania Housing Need and Allocation Model prepared for the Pennsylvania Department of Community Affairs by Walter S. Sachs, Kathleen McLeister and Philip Goldberg, RSWA, Inc., 1974.

For a fuller legal discussion of impact zoning see Yannacone, Victor J., Cohen, Bernard S., Davidson, Stephen G. *Environmental Rights and Remedies* Vol 1 & 2, The Lawyers Co-operative Publishing Company, Rochester, N.Y. 1972 and supplement 1976.

Selective Bibliography

The Innovative Zoning Digest is the product of a detailed literature search conducted in 1975 and updated to 1977. Approximately five hundred pieces of literature were located which addressed innovative land use controls in general or PUD, Incentive or Impact zoning techniques in particular. Published and unpublished documents are included to provide a comprehensive inventory of the literature available both generally and through specific requests of various agencies and institutions involved with zoning matters. For those interested in extensive exploration of innovative zoning techniques, the following selective bibliography provides a guide to the available literature. The items are listed alphabetically by author according to the general subject areas of:

Innovative Land Use Controls
Time Incentives/Phased Development
Intensity/Use Incentives
Transfer of Development Rights
Planned Unit Development
Impact Zoning
Performance Standards
Effects of Innovative Land Use Controls

General:

Innovative Land Use Controls

A Brief Bibliography on Planning and Zoning.
Prepared in Cooperation with the Society of Industrial Realtors and the Urban Land Institute. Columbus, O.: National Industrial Zoning Committee, 1968.

Clark, John. The Sanibel Report: Formulation of a Comprehensive Plan Based on Natural Systems. Washington, D.C.: The Conservation Foundation 1976.

Coffey, Ronald J. "Non-Euclidean 'Zoning': Its Theoretical Validity and Practical Desirability in Undeveloped Areas." *University of Cincinnati Law Review* 30 (3), Summer 1961, pp. 297-316.

Cutler, R. W. "Legal and Illegal Methods for Controlling Community Growth on the Urban Fringes." *Wisconsin Law Review*, 1961, May 1961, pp. 370-402.

Godschalk, David R. and Norman Axler, Carrying Capacity Applications in Growth Management, Chapel Hill, N.C. 1977

Gleeson, Michael E., et. al. *Urban Growth Management Systems: An Evaluation of Policy-Related Research*. Chicago: American Society of Planning Officials, 1975. (Planning Advisory Service Report Nos. 309, 310)

Heyman, Ira Michael. "Innovative Land Regulation and Comprehensive Planning," *Santa Clara Lawyer* 13(2), Winter 1972, pp. 183-235.

Hysom, John L., Jr. "Land Use Controls: Who Watches the Watchers?" *Urban Land* 33(3), March 1974, pp. 3-9.

Levin, Melvin R., Jerome G. Rose, and Joseph S. Slavet. *New Approaches to State Land-Use Policies*. Lexington, Mass.: Lexington Books, 1974.

Mandelker, Daniel R. "Delegation of Power and Function in Zoning Administration," *Washington University Law Quarterly*, February 1963.

Marcus, Norman, and Marilyn W. Groves, eds. *The New Zoning: Legal, Administrative, and Economic Concepts and Techniques*. (New York: Praeger Publishers, 1970.)

Meshenberg, Michael J. *The Administration of Flexible Zoning Techniques*, ASPO, 1976.

"More Flexible Controls," in *Land Use Controls: Present Problems and Future Reform*, edited by David Listokin (New Brunswick, N.H.: Center for Urban Policy Research, Rutgers University, 1974), pp. 185-240.

Pease, James R., and John Stockham. "New Land Use Control Techniques: A Summary Review and Bibliography," Unpublished paper, Land Resource Management Program, Oregon State University Extension Service, Corvallis, Oregon, 1974.

Roberts, James, and Larry Bush. "Managed Growth Overview and Analysis," *Environmental Comment* (19), March 1975, pp. 1-5.

Rose, Jerome G., ed. *Legal Foundations of Land-Use Planning: Cases and Materials on Planning Law*. New Brunswick, N.J.: Center for Urban Policy Research, Rutgers University, 1974.

Thompson, Kate. "A Comparative Study of Three Land Use Controls: Performance Zoning, Timing Ordinances, and Transfer of Development Rights." Unpublished paper, Harvard Law School. 1975.

Williams, Norman, Jr. *American Planning Law: Land Use and the Police Power*, 5 vols. Chicago: Callaghan and Company, 1974.

Incentive Zoning: Time and Use

- Babcock, Richard F., and John S. Banta. Edited by Conrad N. Bagne. *New Zoning Techniques for Inner-City Areas*. Chicago: American Society of Planning Officials, 1973. (Planning Advisory Service Report No. 297)
- Bair, Frederick H., Jr. "Historic and Cultural Conservation: Some Zoning Suggestions," *Florida Planning and Development* 18(9), September 1965, pp. 1-5, 10.
- _____. *Special Public Interest Districts: A Multi-Purpose Zoning Device*. Chicago: American Society of Planning Officials, 1973. (Planning Advisory Service Report No. 287)
- Benson, David Jr. "Bonus or Incentive Zoning — Legal Implications," *Syracuse Law Review* 21(3), Spring 1970, pp. 895-906.
- Blust, Larry D. "Allocating the Burden of Increased Community Costs Caused by New Developments," *University of Illinois Law Forum* 1967(2), Summer 1967, pp. 318-326.
- Center for New York City Affairs of the New School for Social Research. "New Techniques in Zoning," *City Almanac* 4(2), 1969, pp. 1-10.
- City of Los Angeles Planning Department. "A Compilation of Incentive Provisions." 1972.
- Costonis, John J. "The Chicago Plan: Incentive Zoning and the Preservation of Urban Landmarks," *Harvard Law Review* 85(3), January 1972, pp. 574-634.
- Falk, David and Herbert M. Franklin. *Local Growth Management Policy: A Legal Primer*. Washington: Potomac Institute, 1975.
- Franklin, Herbert M. *Controlling Urban Growth — But for Whom? The Social Implications of Development Timing Controls*. Washington: Potomac Institute, Inc., 1973.
- Franklin, Herbert M., David Falk, and Arthur J. Levin. *In-Zoning, a Guide for Policy Makers on Inclusionary Land Use Programs*. Washington: Potomac Institute, 1974.
- Freilich, Robert H. "Development Timing, Moratoria, and Controlling Growth," *Planning, Zoning and Eminent Domain Institute* 1974, pp. 147-219.
- _____. "Interim Development Controls: Essential Tools for Implementing Flexible Planning and Zoning," *Journal of Urban Law* 49(1), August 1971, pp. 65-119.
- _____. *The Legal Basis for a Growth Control System in Fairfax County, Virginia*. Fairfax, Va.: Fairfax County Board of Supervisors, 1974. (PLUS Program Research Paper 2)
- _____, and David T. Greis. "Timing and Sequencing Development: Controlling Growth," in *Future Land Use: Energy, Environmental, and Legal Constraints*, edited by Robert W. Burchell and David Listokin (New Brunswick, N.J.: Center for Urban Policy Research, Rutgers University, 1975), pp. 59-106.
- "From the Courts: Zoning for Timed Development," *Real Estate Law Journal* 1(3), Winter 1973, pp. 279-283.
- Geddes-Brecher-Qualls. "Report to the Zoning Advisory Commission, City of Philadelphia." 1957.
- Hall, George B., Jr. "An Examination of Incentive Zoning in Three Selected Areas: An Attempt to Determine the Suitability for Application in the Poydras Street Area of Downtown New Orleans." Unpublished thesis, University of Tennessee, Knoxville, Tenn., 1973.
- Hart, Richard E. "Downtown Incentive Zoning — A Plan for Anchorage Alaska." Submitted for Presentation, 57th Annual Conference Planning 75: Innovation and Action, American Institute of Planners, San Antonio, Texas, 1975.
- Kennedy, Nolan M., Jr. "Contract and Conditional Zoning: A Tool for Zoning Flexibility," *Hastings Law Journal* 23(3), March 1972, pp. 825-847.
- _____. *Legal Considerations in Central Business District Planning and Development*. Raleigh, N.C.: Division of Community Planning, North Carolina Department of Conservation and Development, 1965.
- Lee, Chilton H. "Birth Control for Premature Subdivisions — A Legislative Pill," *Santa Clara Lawyer* 12(3), 1972, pp. 523-542.
- Lower Manhattan Waterfront. New York: Office of Lower Manhattan Development, 1975.
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